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सत्यमेव जयते

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Vol. III contains Nos. 1—25)

(Part I—Questions and Answers)

PARLIAMENT SECRETARIAT
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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

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HOUSE OF THE PEOPLE

Saturday, 5th September, 1953.

The House met at a Quarter Past Eight of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

CENTRAL COMMITTEE FOR LAND REFORMS

***1042. Shri M. L. Dwivedi:** Will the Minister of **Planning** be pleased to state:

(a) the terms of reference of the Central Committee for land 'reforms, appointed by Government recently;

(b) by what time the Committee is to complete its labours;

(c) whether the Committee has already started functioning;

(d) if so, how many meetings of the Committee have been held so far; **and**

(e) whether representatives of States have been associated with the Committee with a view to co-ordinating the activities of the Centre and the States in this direction?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) The Central Committee for Land Reforms, which consists of the Chairman and the Members of the Planning Commission and the Union Ministers of Food and Agriculture and Minister of Agriculture, was set up with the object of ensuring the implementation of the land reform programme contained in the Five Year Plan.

(b) to (d). The Committee's work is of a continuing character, since it considers, amongst other things, land reform proposals from State Governments as and when they are received. The Committee began to function in May, 1953, and has since met four times.

(e) Representatives of State Governments are, as a rule, invited to attend the meetings of the Committee when their proposals are under consideration.

श्री एम० एल० द्विवेदी : इस योजना की खास खास बातें क्या हैं और अभी तक इस कमेटी ने क्या काम किया है ?

Shri Hathi: This Committee generally advises the State Governments on the implementation of 'the land reforms programme contained in the Five Year Plan. As I mentioned earlier, it has met four times, and the land reforms of the Delhi, Himachal Pradesh and PEPSU States were considered.

Shri Heda: Looking at the different types of land reforms that are being taken up by the different States, we find that there is no uniformity in the measures that are being taken. How does this Central Committee strive to bring about some sort of uniformity or harmony between these various measures?

402 P.S.D.

Shri Hathi: The policy would be uniform, but it may be that there are differences. so far as fixation of ceilings is concerned. or so far as the ranges are concerned. That may not be uniform. but vary according to the local conditions in each particular State. But the general policy would remain the same.

श्री रघुनाथ सिंह : इस कमेटी न यू० पी० के सम्बन्ध में अब तक क्या क्या काम किया है ?

Shri Hathi: As for Uttar Pradesh, the matter has not yet been taken up by this Committee, because it has started functioning only since May last.

Shri A. M. Thomas: In the progress report of the Five Year Plan it has been stated that a special division for Land reform studies is being set up. May I know whether that special division has been set up, and if so what the personnel of that division is?

Shri Hathi: Yes, that special division for land reform studies has been set up in June last.

Shri A. M. Thomas: What about the personnel?

Shri Hathi: It is a special division set up under this Committee. and there are officers. of course.

Sardar Hukam Singh: May I know which out of the reforms recommended by PEPSU. have been approved by this Committee?

Mr. Deputy-Speaker: It must be a long list, I think?

Shri Hathi: It is a long list. It is not possible for me to give the reply offhand here.

Mr. Deputy-Speaker: Is it published?

Shri Hathi: No. The matter is still under consideration by Government.

Kumari Annie Mascarene: May I know whether Government have any scheme for nationalising land?

Mr. Deputy-Speaker: This question relates to the Committee on land reforms. and not nationalisation.

Shri Kelappan: May I know which of the States have already taken up these reforms?

Shri Hathi: As I said before. Delhi. Himachal Pradesh and PEPSU.

Shri M. S. Gurupadaswamy: May I know whether this Committee waits for suggestions by the various Governments, or whether they consider this issue, without waiting for any suggestions from the different States?

Mr. Deputy-Speaker: The hon member wants to know whether States other than Delhi. Himachal Pradesh. PEPSU have been consulted?

Shri M. S. Gurupadaswamy: The hon. Minister just stated that the Committee will go into the suggestions submitted by the various State Governments. I want to know whether the Committee will wait for their suggestions. or act on their own initiative.

Shri Hathi: Generally land reforms which are proposed by the State Governments are considered by this Committee. and the representatives of the States concerned are also invited during the discussions.

श्री गणपति राम : क्या में जान सकता हूं कि इस कमेटी में राज्य सरकारों के भी प्रतिनिधि रखे गये हैं, यदि हां तो उत्तर प्रदेश से कौन हैं ?

Shri Hathi: Whenever any particular question pertaining to any particular State is being considered. the representatives of the State concerned are invited for the discussion.

Shri B. K. Das: The Planning Commission has suggested that there should be a state machinery. May I know whether such state machineries have been set up for the purpose of helping this Committee?

Shri Hathi: The regional boards have not yet been established in all the States.

Shrimati Renu Chakravartty: The hon. Minister stated that plans submitted by the State Governments are considered by this Committee. Have all the State Governments submitted their plans? If not, what happens to those States which have not yet submitted any plans?

Shri Hathi: The States which I mentioned earlier, *viz.*, Delhi, Himachal Pradesh and PEPSU have sent their proposals. The other States have not yet sent their proposals.

श्री एम० एल० द्विवेदी : मैं यह जानना चाहता था कि जो यह काम कमेटी ने शुरू किया है इस सम्बन्ध में जो लोकल व्यूज हैं उनको जानने के लिये क्या प्रबन्ध किया गया है ?

The Minister of Food and Agriculture (Shri Kidwai): I think people have not yet clearly understood the position. The different States were carrying out land reforms, and there was a large divergence of opinion in regard to what has been done in one State, and what has been done in another State. Therefore this Committee had been constituted and now all those States that want to have land reforms will submit their schemes to this Committee, for its approval; after their approval has been obtained, effect will be given to their proposals, and legislation will be undertaken. Therefore this Committee has been created, to effect some sort of uniformity in all the States. Some States have already carried out the reforms, while many other States are still having proposals under consideration. This Committee was created only in May last, and it has since then been considering all the proposals that have been coming from different States.

HARIJAN UPLIFT IN PUNJAB

***1043. Prof. D. C. Sharma:** Will the Minister of **Planning** be pleased to state the different schemes under the Five Year Plan for the betterment of Harijans in the Punjab and the amount of money to be spent on each of them by the Punjab Government and the Central Government?

The Deputy Minister of Irrigation and Power (Shri Hathi): There are no schemes as such, under the Five Year Plan for the betterment of Harijans in the Punjab specifically. The latter part of the question does not, therefore, arise.

Prof. D. C. Sharma: According to the special directives in the Constitution, a special provision has got to be made for the uplift of Harijans in every State. If so, why has not any special provision been made for their uplift in Punjab?

Shri Hathi: That is for Scheduled Castes and Scheduled Tribes, not for Harijans exclusively.

Prof. D. C. Sharma: When I talk of Harijans, I talk of Scheduled Castes and Scheduled Tribes also. May I know whether any scheme has come from either the Punjab Government or the Punjab people, for the uplift of Harijans, so far as education, medical, health, tilling, co-operative facilities etc. are concerned?

Shri Hathi: No scheme as such for Harijans has yet been received from the Punjab Government.

श्री गणपति राम : क्या सरकार यह समझती है कि संविधान की धाराओं के अनुसार जो सुरक्षा हरिजनों को मिली हुई है और जिस रफ़्तार से सरकार चल रही है उससे निश्चित समय के अन्दर क्या हरिजनों का काम पूरा कर सकेगी ?

Shri Hathi: That is what is hoped.

Assistance to Punjab State

*1044. **Prof. D. C. Sharma:** Will the Minister of **Planning** be pleased to state the amount of assistance given by the Centre by way of loan, grant, or subsidy to the State of Punjab under the Five Year Plan?

The Deputy Minister of Irrigation and Power (Shri Hathi): A statement showing Central assistance given to Punjab during 1951-52 and 1952-53 is laid on the Table of the House. This does not include the loans granted for the Bhakra-Nangal Project.

STATEMENT

Central assistance to the Punjab under the 5 Year Plan

Year	Assistance promised 5 years	Assitance given under				Total assistance given
		GMF		Minor irrigation loans	Specific schemes loans	
		Loans	Grants			
1951-52		95·36	15·31	..	..	110·67
1952-53	1100·00	107·94	25·91	28·80	..	162·65

Prof. D. C. Sharma: I have got the Statement here, Sir. May I know for what purpose the loans have been specified for 1952-53?

Shri Hathi: Loans and grants mentioned in the Statement for 1952-53 are given for the 'Grow More Food' campaign which includes minor irrigation works, land improvement, better seeds, manure etc.

Prof. D. C. Sharma May I know, Sir, what are the specific minor irrigation projects for which loans have been given in the Punjab?

Mr. Deputy-Speaker: What is the difficulty in the hon. Member asking this in the question itself? It is a tabular statement that has been given in reply to a starred question. I have got a copy here. All this could have been easily added in the question—for what purpose the loan is given etc. Then it could be easily answered in the tabular statement—for the purpose of minor irrigation works, better seeds, manure etc. etc. Hon. Members will do so hereafter

Prof. D. C. Sharma: May I know, Sir, for what specific purpose, for what specific minor irrigation projects this loan of 28·80 has been given in 1952-53?

Shri Hathi: It is given *ad hoc*, Sir. No minor irrigation works are being specified. They are given for all these purposes. The question of using these for each particular work—minor irrigation work—will be for the State Government

Shri Sarangadhar Das: May I know, Sir, if it is not the customary practice for States to suggest particular schemes with their costs and have them sanctioned before an *ad hoc* grant is given?

Shri Hathi: Generally, Sir, these schemes are being approved by the Ministry of Food and Agriculture.

Mr. Deputy-Speaker: Next question.

Production Programme of Cloth

*1045. **Shri Dabhi:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that the Planning Commission has in the Five Year Plan, recommended the adoption of a common production programme of cloth;

(b) if so, the production of varieties of cloth to be reserved for khadi; and

(c) the approximate value of the annual production of mill cloth of the varieties referred to in part (b) above?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) and (b). This apparently refers to the reservation for the handloom industry which includes khadi. There has been no specific reservation for khadi as such. If so, certain varieties of cloth have been reserved for production by the handloom industry and in addition, the production of *dhotis* by mills has been restricted to 60 per cent. of their production during the year April, 1951 to March, 1952, pending a full examination of this question by the Textile Enquiry Committee.

(c) Only an estimate can be given, based on production figures and this is approximately Rs. 40 crores a year.

Shri Dabhi: Sir, I wanted to know whether any varieties of cloth are exclusively reserved for Khadi?

Shri T. T. Krishnamachari: No, Sir. The reservation is for the handloom industry and since Khadi also is woven on handlooms, the reservation will apply to Khadi as well.

Shri Dabhi: Is it a fact that Khadi is dearer than both the mill cloth and the handloom cloth woven from mill yarn, and therefore, mere reservation of handloom cloth would not help Khadi?

Shri T. T. Krishnamachari: That is so. Sir.

Shri S. G. Parikh: May I know, Sir, whether the Mills in Bengal have adhered to the restrictions?

Shri T. T. Krishnamachari: There have been cases where mills have not adhered to the restrictions.

Shri S. G. Parikh: What steps have Government taken?

Mr. Deputy-Speaker: The hon. member will look at me. The advantage then is that every section of the House will be able to hear.

Shri T. T. Krishnamachari: Government have under consideration steps that could be taken in regard to enforcing these restrictions.

Shri S. G. Parikh: Is it a fact.....

Mr. Deputy-Speaker: No fact.

Shri A. M. Thomas: We have worked a scheme of restriction of production of mills with regard to certain varieties for a considerable time. May I enquire from the Government whether it has resulted in retrenchment of labour force in the mills or closure of mills?

Shri T. T. Krishnamachari: I do not think so, Sir.

Shri Achuthan *rose*—

Shri S. N. Das: May I know, Sir, whether the Textile Enquiry Committee has been asked to submit an interim report on this subject?

Shri T. T. Krishnamachari: No, Sir.

Mr. Deputy-Speaker: Mr. Achuthan.

Shri Achuthan: My question is covered by the question just put, Sir.

Shrimati Renu Chakravartty: May be I am repeating. We have read in the papers that the quota of cloth which is reserved for mill-made *dhotis* has been waived in the case of Bengal. Is that a fact?

Shri T. T. Krishnamachari: Sir, the question of Bengal is rather peculiar. We have allowed certain relaxations in these restrictions. We find that the mills are not even conforming to the relaxed restrictions. What has to be done in regard to this is a matter which is now under consideration.

Shri Dabhi: May I know, Sir, the quantity of mill cloth, handloom cloth and Khadi production in the year 1952-53?

Shri T. T. Krishnamachari: I am afraid I would require notice, to be precise.

Shri B. K. Das: May I know, Sir, whether this question of reservation for Khadi has been considered by the Khadi and Village Industries Board and whether any suggestion has been made to the Government about it?

Mr. Deputy-Speaker: Exclusively?

Shri T. T. Krishnamachari: There has been no reservation for Khadi. Even the Khadi and Village Industries Board have not asked for a reservation as such, but they have asked for certain facilities like subsidies and help to the Khadi industry. That is a different question altogether

Shri S. C. Samanta: May I know, Sir, whether the West Bengal Millowners' Association has submitted an application to the effect that special permission be given to the mills in West Bengal for more production for consumption during the Puja season?

Shri T. T. Krishnamachari: Sir, the West Bengal Mills go on submitting memoranda. It is rather difficult to differentiate between the demands. Maybe that some such memorandum has been received by us.

Shri Sarangadhar Das *rose*—

Mr. Deputy-Speaker: The hon. member is late.

Shri Sarangadhar Das: You were looking to that side.

Mr. Deputy-Speaker: I am looking all round.

Shri Sarangadhar Das: May I know, Sir, how the capacity that is released by restricting production of *dhotis* to 60 per cent. is utilised? Is it for manufacturing certain lines for export?

Shri T. T. Krishnamachari: Sir, we leave it entirely to the mills to utilise that surplus capacity, and it varies from mill to mill. But generally, production of long cloth has increased

Babu Ramnarayan Singh: Sir, in view of the fact......

Shri Raghunath Singh: In Hindi.

Babu Ramnarayan Singh: He understands only English.

In view of the fact that in the production of Khadi more hands are employed than in the production of other kind of cloth, how is it that a special place is not reserved for Khadi?

Shri T. T. Krishnamachari: I have said, Sir, that even the Khadi Board who are now in charge of production of Khadi, have not asked for any reservation. There are other methods by which they think that improvement in the production, both quantitatively and qualitatively, of Khadi can be achieved.

Shri Kelappan: Have there been complaints that the mills have been producing more than the quota allotted to them?

Shri T. T. Krishnamachari: Sir, it is my unfortunate lot to deal with nothing but complaints. We have received such complaints.

Shri Raghuramaiah: May I know, Sir, what categories of handloom cloth are reserved and what percentage it bears to the total production of cloth?

Shri T. T. Krishnamachari: The categories, Sir, are a long list.

Mr. Deputy-Speaker: It was read out on a previous occasion.

Shri T. T. Krishnamachari: On a number of occasions. I can give that information to the hon. member. So far as the percentage is concerned, it is rather difficult to give now.

Shri Heda *rose*—

Mr. Deputy Speaker: I have allowed more than 10 questions.

ISSUE OF ADVERTISEMENTS

*1046. **Shri Nageshwar Prasad Sinha:** (a) Will the Minister of **Information and Broadcasting** be pleased to state what principles are kept in view in the matter of giving Government advertisements to newspapers?

(b) Is there a Common Code of ethics to guide the State Governments also in this matter?

The Minister of Information and Broadcasting (Dr. Keskar): (a) The principles which are kept in view in the matter of giving Government of India advertisements to newspapers and periodicals are: to secure the widest possible coverage within the funds available, to reach the masses in all walks of life, particularly where the advertisements carry a message to the people, and in selecting newspapers to pay due regard to effective circulation, regularity in publication, class of readership, adherence to accepted standards of journalistic ethics and other factors such as production standards and the languages and areas intended to be covered.

(b) State Governments use their own discretion in the matter of placing advertisements issued by them.

Shri Nageshwar Prasad Sinha: May I know, Sir, whether certain newspapers in the past have made a grievance against the discriminatory and 'pick and choose' policy of the Government?

Dr. Keskar: Yes, Sir; certain newspapers have made a grievance, certain newspapers are making now and probably will make also in the future.

Pandit Lingaraj Misra: Sir, does the Indian language Press receive the same consideration as the English Press?

Dr. Keskar: Unfortunately, up till now the Language Press has not been receiving sufficient percentage of our advertisements and that has been due to the principles that have been followed till now. But, as I stated just now, after re-consideration of our policy we have decided to give greater weightage to Language papers.

Shri Nageshwar Prasad Sinha: Is it the policy of Government to give advertisements also to such newspapers as indulge in communal and anti-national writings?

Dr. Keskar: If the Government is convinced that any particular paper persistently indulges in false and virulous communal propaganda, Government is not inclined to give advertisements to such newspapers.

Shri Raghuramaiah: May I know whether there is any truth in the allegation that government advertisements are not given to certain papers because they are not continuously supporting Government, as for instance, the *Times of India* in Bombay?

Dr. Keskar: It is unfortunately a fact that it is that particular paper which has been receiving the largest amount of government advertisement.

Shri Dabhi: Sir, may I know whether one of the principles kept in view in the matter of giving advertisements to newspapers is that the policy of the newspaper in question should not be inimical to the declared and implemented State policy?

Dr. Keskar: Sir, as I said the State Governments use their own discretion. I cannot state what principles the State Governments are following; as far as the Government of India is concerned, it is not so. And, in fact the majority of Government advertisements go to papers which generally are very critical of government

श्री भक्त दर्शन : क्या माननीय मंत्री महोदय को इस आशय की शिकायत मिली है कि अभी तक सरकारी विज्ञापन देने में हिन्दी पत्रों की उपेक्षा की जा रही है ? क्या इस सम्बन्ध में गवर्नमेंट कोई कदम उठाने की कोशिश कर रही है ?

डा० केसकर : मैं ने तो आप को बताया कि जो देशी भाषाओं के अखबार हैं उन को काफ़ी तादाद में विज्ञापन नहीं मिलते थे। लेकिन जो हम ने नयी पालिसी अख्तियार की है उस में देशी भाषाओं के जो पत्र हैं उन को उस में अधिक विज्ञापन दिये जाते हैं।

Kumari Annie Mascarene: May I know which are the papers selected by Government and what is the amount given to them annually?

Mr. Deputy-Speaker: The hon. Member is wanting a list of newspapers all over India, a hundred of them.

Kumari Annie Mascarene: I want the amount given to them.

Dr. Keskar: Sir, it is not possible to give the amount because government advertisements are not a fixed item. New items come up like the National Savings Scheme and so on and a certain amount of money is given to them. Regarding the number of papers also, it is not possible to give it because some papers are going out and some papers are coming in. So, the list is a fluid one.

Shri U. M. Trivedi: What is the definition of the word communal? Is it laid down anywhere by the Government?

Mr. Deputy-Speaker: Hon. Members understand that.

Shrimati Renu Chakravartty: How does it come about that the Central Government gives advertisements to papers that are critical of the Government and the State Government in Bombay specifically says that they are not going to give advertisements to papers that criticise them?

Mr. Deputy-Speaker: They have no control over State Governments.

Dr. Keskar: As I said, I cannot answer for the State Governments. I may also remind the hon. Member that the State Governments are within their rights. We cannot either stop them from doing that. But, as far as the Central Government is concerned, I have stated the policy.

Dr. Lanka Sundaram: May I know whether Government maintains a black-list of newpapers to which advertisements are not given?

Dr. Keskar: There is no such thing as a black-list of newspapers. If the Government decides that a particular newspaper should not be given advertisements, then they do so. Besides that, there is no separate black-list of newspapers kept for that purpose.

Shrimati A. Kale: How much amount is spent on advertisements by the Government of India and how much is spent on English newspapers?

Mr. Deputy-Speaker: The same question was answered just now.

Shrimati A. Kale: I want to know the amount.

Mr. Deputy-Speaker: It is not possible to give the amount as it depends upon the advertisements.

Shri Muniswamy: The hon. Minister just now said that the discretion is given to the State Governments.

Mr. Deputy-Speaker: They have got the right inherently.

Shri Muniswamy: May I know if any representation is made by the newspapers against the State Governments, will it be taken into consideration by the Central Government?

Mr. Deputy-Speaker: How can they? The hon. Minister has already said that this is not an appellate court over the State Government.

Shri M. S. Gurupadaswamy: May I know whether in giving advertisements, the Government wants to control the policy of certain papers?

Mr. Deputy-Speaker: The Central Government does not want.

Shri Bansal: May I know if these advertisements are given through some advertisement agencies or directly by the Government to the papers?

Dr. Keskar: Generally they are given through these agencies.

Shri Feroze Gandhi: May I know why the Government should not follow a policy of not giving any advertisement to any newspaper?

Mr. Deputy-Speaker: That will be considered.

MOVABLE AND IMMOVABLE EVACUEE PROPERTY

***1048. Sardar A. S. Saigal:** (a) Will the Minister of **Rehabilitation** be pleased to state whether it is a fact that Government have received a reply from Pakistan Minister for Refugees about movable and immovable evacuee property?

(b) What further steps are Government taking about movable and immovable evacuee property and other outstanding matters?

The Minister of Rehabilitation (Shri A. P. Jain): (a) Yes.

(b) A series of discussions were held in Karachi from the 27th July to 13th August 1953 between the representatives of the Governments of India and Pakistan on the subject of evacuee property. Agreement was reached on certain matters. It is expected that further discussions will be resumed before the 20th September 1953.

सरदार ए० एस० सहगल : क्या यह सच है कि पुरुषार्थियों की मनकूला और ग़ैर मनकूला जायदाद का जल्द तसफिया न होने के कारण पुरुषार्थियों में बहुत ज्यादा असन्तोष फैला हुआ है ?

श्री ए० पी० जैन : सच है ।

सरदार ए० एस० सहगल : इस को दूर करने की जल्द से जल्द क्या व्यवस्था की जायगी ?

श्री ए० पी० जैन: बराबर पाकिस्तान से बातचीत चल रही है और लिखा जा रहा है कि जल्दी फैसला हो ।

Sardar Hukam Singh: Will the Government stick to their old decision of settling this problem independently of any negotiations that may be had with Pakistan or have the recent negotiations effected any change in that policy?

Shri A. P. Jain: The whole policy is determined by actions and reactions of the decisions of the Government as well as negotiations.

Shri Gidwani: Are Government aware that the delay in settling the question is causing great hardship and misery to the displaced persons as evidenced by the Government adopting coercive measures such as eviction of displaced persons from their houses for non-payment of their dues and even attaching......

Mr. Deputy-Speaker: Whoever is not given property is suffering. Why should there be any reasoning for it?

Shri Gidwani: Sir, the conditions are worsening. The Compensation Bill was to be introduced during this session and it is being further postponed. This is resulting in causing great misery. The displaced persons have no money and even their glasses for drinking water are attached.

Mr. Deputy-Speaker: Is there any necessity of bringing all this in?

Shri A. P. Jain: I heard the hon. Member's lecture all right, Sir.

Shri Gidwani: Is it proper for the Minister to say, 'I have heard the hon. Member's lecture all right'? I protest strongly.

Mr. Deputy-Speaker: What I say is, it is a very touchy subject. Hon. Members know the difficulties which the evacuees are suffering from. The House also appreciates those difficulties. The hon. Member could have asked a simple question as to when he is going to bring in that Bill, is it likely to come in this session. It would add to the information of the House and the public at large. Instead of that the hon. Member is going on giving details as to their sufferings. The hon. Minister says that he is aware of it. What else can he say?

Shri Gidwani: He did not say so, Sir. He said, 'I heard the lecture of the hon. Member'. Is it proper on his part to say so, Sir?

Mr. Deputy-Speaker: The hon. Minister need not have used that expression. All that I can say is that once the same Members become Ministers, they are expected to be a little more thick-skinned. They ought not to become touchy. They alone will be asked questions. No Member here will be asked questions.

Kumari Annie Mascarene: I wish to raise a point of order. It has been the experience of this House that more than once Ministers from the Cabinet have been insulting the Members in the Opposition by remarks and insults also. There should be a rule that governs them as well as governs us. I wish to get a ruling on the subject.

Mr. Deputy-Speaker: No ruling on a hypothetical matter. I gave a ruling, but I am afraid I am not noticing any particular kind of practice. On both sides I find sometimes some expressions are used which immediately hon. Members are prepared to acknowledge. We are all getting on with good humour. Occasionally these things happen and will happen.

Sardar Hukam Singh: We are told that the position is changing by the actions and reactions of the two countries. May I know where the pendulum stands just at present and what the reactions are.

Shri A. P. Jain: At one time..

Mr. Deputy-Speaker: Order, order. Let us hear the answer. Mr. Bansal. Unfortunately, I have to call hon. Members who are talking. They ought not to carry on conversation.

Shri A. P. Jain: At one time when there was not any possibility of any settlement between ourselves and Pakistan, we were thinking of bringing forth a Bill unilaterally, but later on when it was found that they were prepared to negotiate, the introduction of that Bill was postponed. So, just as I said it, is all a question of actions and reactions of our decision and negotiations with Pakistan, because the entire question of evacuee property has been a subject of prolonged negotiations between ourselves and Pakistan.

Sardar Hukam Singh: What is the position now, Sir? That has not been answered. Have we to await the negotiations and the ultimate decision, or Government will proceed...

Mr. Deputy-Speaker: Is there any possibility of saying that it is going to be introduced or not introduced in the present session or in the near future?

Shri A. P. Jain: It is difficult to fix any date because we are carrying on negotiations, and unless the results of the negotiations are known, it will not be proper for us to think of any unilateral action.

EDUCATIONAL BROADCASTS

***1049. Prof. D. C. Sharma:** Will the Minister of **Information and Broadcasting** be pleased to state:

(a) the steps taken to arouse active and widespread interest in educational broadcasts; and

(b) whether any scheme for this purpose has been prepared in conjunction with the Central Education Ministry and educational authorities in the States?

The Minister of Information and Broadcasting (Dr. Keskar): (a) and (b). Special educational programmes are being broadcast by 11 Stations of All India Radio. A statement showing the frequency, timing and duration of the broadcasts, the age group intended to be served and the language employed, is placed on the Table of the House. [*See* Appendix V, annexure No. 28]. Proposals for introducing educational programmes at some other Stations are under consideration. In some areas the broadcasts form a part of the school curriculum. The programmes are given in different forms, *e.g.* discussions, debates, readings etc. and cover many subjects. The programme plans are discussed with consultative panels which include representatives of educational institutions and others interested in such broadcasts. It has been decided that programmes of educational broadcasts will be framed in consultation with the Ministry of Education and the Ministry has, in this connection, written to all the State Governments inviting their suggestions and asking them to co-operate with the local Station directors by setting up Advisory Committees, wherever necessary.

Shri Radha Raman and **Prof. D. C. Sharma** *rose*—

Mr. Deputy-Speaker: Prof. Sharma.

(*Prof. D. C. Sharma pointed his finger at the other hon. Member.*)

Mr. Deputy-Speaker: The hon. Member may look at me instead of pointing his finger.

Prof. D. C. Sharma: The difficulty is, Sir, you do not always look at us!

From the statement laid on the Table of the House, I find that there are certain radio stations where there is no provision for educational broadcasts. May I know why that omission is there, and when those radio stations are going to have educational broadcasts, and if they have not had adequate broadcasts, what are the reasons for that?

Dr. Keskar: I said in my answer that the proposal for having educational broadcasts in certain other stations is under active consideration, because in the matter of educational broadcasts it has to be remembered that it can only be done with a certain amount of active co-operation on the part of the educational institutions and the Department of Education of the particular State. Some States have been more forward and have co-operated more actively, and therefore, they have got educational broadcasts much earlier than the others, but I hope that very soon we will have more educational broadcasts from the other stations to which the hon. Member was referring

Prof. D. C. Sharma *rose*—

Shri M. L. Dwivedi: May I know, Sir.

Mr. Deputy-Speaker: Prof. Sharma.

Prof. D. C. Sharma: May I know if it is the intention of the Government to have these broadcasts on general information subjects only, and not on curricular subjects?

Dr. Keskar: If my hon. friend has listened carefully to my answer, I said that in certain places even school curriculums are being broadcast in consultation with the authorities, but it all depends on our consultation with the local educational authorities. In some places they find it advantageous to have even school curriculums broadcast because where all schools have got a radio set, they can have even curricular broadcasts. Where the school authorities or the Educational Department are not ready to incur that expenditure, naturally it is not worth while having a curricular broadcast on the radio. What I would like to say is that in this question it is not possible for us to say anything definite. It all depends on our consultations with the educational authorities in the particular State.

Shri Velayudhan: May I know, Sir, what steps the Government intend to take regarding commercial broadcasts which also have got certain educational value?

Dr. Keskar: It may have a certain educational value for people like my hon. friend, but Government do not think commercial broadcasts have any educational value

Shri Veeraswamy: May I know, Sir, whether it is a fact that educational broadcasts are made during working hours of the schools in Madras State:

Mr. Deputy-Speaker: I have got the tabular statement here. The hon. Member may read it.

Dr. Keskar: For Madras there are special broadcasts for middle schools, for high schools and for elementary schools

Mr. Deputy-Speaker: Are they during school hours? That is what he wants. All of them are during school hours.

Dr. Keskar: Yes.

Shrimati Renu Chakravartty: May I know if there is any particular educational committee to set up these programmes in these radio stations under the Station Director, or is it left entirely to the Programme Director just in consultation with the educational authorities to come to a conclusion?

Dr. Keskar: No, there is a special committee. Generally in these committees, the Station Director is assisted by two or three eductionists of the area, there is the Director of Education of the particular State—about five in all. It is not merely left to the Programme Director. They cannot even start an educational broadcast if they want without a special permission from the headquarters.

श्री एम० एल० द्विवेदी : विलायत से बी० बी० सी० एक्सपर्ट मिस्टर इस्टीवेंस अगस्त के महीने के आखिरी सप्ताह में आये थे और उन्होंन रेडियो द्वारा शिक्षा देने के सम्बन्ध में प्रदर्शन किये थे, मैं जानना चाहता हूं कि उस पर क्या अमल किया जा रहा है ?

डा० केसकर : मिस्टर इस्टीवेंस को इस तरह के प्रदर्शन देने के लिए हमने बुलाया नहीं था, लेकिन एज्यूकेशनल ब्राडकास्ट के बारे में जो कुछ सुझाव हमारे सामने पेश होते हैं, या जो हमको नये नये सुझाव मिलते हैं, उन सब पर हम विचार करते हैं ।

KOSI CONTROL SCHEME

***1050. Shri L. N. Mishra:** Will the Minister of **Irrigation and Power** be pleased to state:

(a) whether a Conference of experts to examine the Kosi Control Scheme afresh was held in Delhi some time in June, 1953;

(b) if so, (i) the persons who participated in the Conference and (ii) the purpose of the Conference; and

(c) whether any decisions were arrived at in the said Conference?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) and (b). An inter-departmental meeting was held on the 6th June, 1953 to discuss the Belka Dam Scheme prepared by the Central Water and Power Commission. Representatives of the Ministry of Irrigation and Power, Central Water and Power Commission and the Planning Commission participated in the meeting.

(c) It was decided to discuss the matter with the Members of the Kosi Advisory Committee.

Shri L. N. Mishra: May I know, Sir, whether the matter was discussed with the Kosi Advisory Committee and if it was discussed, what was the result?

Shri Hathi: The matter was discussed with the Members of the Advisory Committee in July last. The decision taken was that further investigation should be made by the Central Water and Power Commission.

Shri L. N. Mishra: May I know, Sir, whether any attempt has been made to evaluate in detail the extent of damage and loss caused by the Kosi floods, and the benefits that will flow from the preventive measures?

Shri Hathi: Data regarding the benefits that will accrue by the preventive measures has to be collected. So far as the benefits that will accrue by irrigation are concerned, that also is being collected.

Shri G. P. Sinha: May I know whether the investigation of the Kosi Project has started, and if it is a fact that other projects on which investigations started later are much ahead in progress now? What is the reason for this discrimination?

Shri Hathi: The Kosi river, Sir, is a very difficult problem. The project itself is not so easy: it is perhaps one of the most difficult problems ever tackled in the world. It is not a simple question of controlling floods. The river itself changes its course every now and then. Moreover the foundations of the dams also have to go very deep. So, it has naturally taken a longer time than the other projects.

COMBATING CORRUPTION

***1051. Shri M. L. Dwivedi:** (a) Will the Minister of **Planning** be pleased to refer to the statement made by the Deputy Minister for Irrigation and Power at Ahmedabad on the 21st May, 1953 to the effect that the Government of India were working out details of a plan to combat corruption at all levels of Administration and state the progress made so far in this direction?

(b) what steps are being taken to implement the recommendations of the Bharat Sewak Samaj in this regard with which Government are in general agreement?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) The matter is still under consideration.

Mr. Deputy-Speaker: Next question. He says the matter is still under consideration.

Shri Feroze Gandhi: This is a question on corruption, what has it to do with planning?

Shri M. L. Dwivedi: There are recommendations in the Planning Commission's Report regarding eradication of corruption.

Mr. Deputy-Speaker: We had a long discussion over this matter on a resolution here, and the House spent a lot of time on this subject. The Minister says it is under consideration: let us await their proposals.

HANDLOOM PRODUCTS

***1052. Shri M. L. Dwivedi:** (a) Will the Minister of **Commerce and Industry** be pleased to state the steps which Government are taking to popularize Indian handloom products in Middle East and South East Asian countries and elsewhere?

(b) Has the marketing organisation consisting of four commercial agents started functioning in all the proposed zones?

(c) What stage has been reached in the setting up of a Central Handloom Directorate in conjunction with the State Governments to promote co-operative organisations in the handloom industry and to undertake schemes for marketing effecting improvements in production, techniques and designs?

(d) Have any funds been made available to the handloom industry for development?

(e) If so, how much and from what sources have they been made available?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) A statement is laid on the Table of the House. [*See* Appendix V, annexure No. 29.]

(b) Arrangements in this behalf are being finalised.

(c) The Directorate has been set up.

(d) and (e). Schemes for the development of handloom industry have been received from various States. The allocation to various States of grants from the Handloom Fund will be made out of the cess, levied under the Khadi and Other Handloom Industries Development (Additional Excise Duty on Cloth) Act. 1953.

Shri M. L. Dwivedi: Arising out of point No. 3 in the statement laid on the Table of the House, may I know in how many countries show-windows and displays of handloom fabrics and such fabrics have been started?

Shri T. T. Krishnamachari: As a matter of fact, the item itself says that Trade Representatives have been requested to open show windows. The request has gone; naturally it takes some time for it to be implemented.

Shri M. L. Dwivedi: May I know how many persons have taken advantage of the policy of liberalisation and free licensing of handloom products?

Shri T. T. Krishnamachari: Practically licensing in respect of all textiles is free. It is very difficult to say how many persons have taken advantage of it. I am afraid I have to go through the statistics available to give this figure. Generally, there has been an increase in the export of handloom products.

Dr. Rama Rao: May I know, Sir, whether Government are making any purchase of handloom cloth for their own departments like the military, railways, posts and telegraphs and medical?

Shri T. T. Krishnamachari: I believe, Sir, the House is aware that my hon. colleague the Minister for Works, Housing and Supply did issue a circular asking the Government Departments to give preference to handloom products, that was three or four months back.

Shri Gadilingana Gowd: Is it a fact that there are large accumulation of stocks of handloom with weavers as a result of which they are suffering? If so, what relief measures Government have undertaken?

Shri T. T. Krishnamachari: This is a slogan we often hear. There is an element of truth in all slogans.

Shri Kelappan: May we know where this Central Directorate is located and who are the members?

Shri T. T. Krishnamachari: The Directorate has no members. It is not a Board of Directors. It is an official, administrative organisation. It is proposed to locate it in Madras.

Shri Raghuramaiah: From the experience so far gained what categories of handloom cloth are finding a popular market in the Middle-East and South East Asian countries?

Shri T. T. Krishnamachari: There is no time to gain any experience. As I said, the hon. member must wait for some time.

जोंक परियोजना के प्राक्कलन

*१०५३. **श्री आंगड़े** : (क) क्या सिंचाई तथा विद्युत मंत्री ९ अप्रैल, १९५३ को पूछे गये तारांकित प्रश्न संख्या १२४० के अनुपूरक प्रश्नों के उत्तर को निर्देश करके यह बतलाने की कृपा करेंगे कि उस के बाद से मध्य प्रदेश की जोंक नदी घाटी योजना को पूरा करने के लिये कितने धन की आवश्यकता होगी इस विषय में क्या प्राक्कलन तैयार कर लिये गये हैं और क्या यह योजना आरम्भ करने के योग्य है ?

(ख) क्या यह सत्य है कि जोंक नदी के प्रस्तावित बांध के स्थान पर की चट्टानें कोमल, भुरभुरी और अनुपयुक्त पाई गई हैं ?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) The reply to first part of the question is in the negative. As regards the latter part, the project has been dropped as not being feasible.

(b) Yes, sir.

MID-DAY PROGRAMME IN CUTTACK RADIO STATION

***1054. Shri Sanganna:** Will the Minister of **Information and Broadcasting** be pleased to state:

(a) the reasons for withdrawal of the mid-day programme from the Cuttack Radio Station with effect from the second week of May, 1953;

(b) whether the Government of Orissa have been consulted beforehand in this regard;

(c) whether any representations have been received from the public for the restoration of the mid-day programme; and

(d) whether there is any proposal under consideration of Government to restore the mid-day programme?

The Minister of Information and Broadcasting (Dr. Keskar): (a) The mid-day transmission from the Cuttack Station of All India Radio **was discontinued with effect from** 31st May 1953 in the interests of economy and with effect from the same date the mid-day Oriya news bulletin started being broadcast from Calcutta on the high power short wave as well as low power medium wave transmitters.

(b) No. Sir.

(c) Yes.

(d) No, Sir.

Shri Sanganna: May I know, Sir, whether the Programme Advisory Committee has been consulted?

Dr. Keskar: No, Sir.

KORBA COAL FIELD

***1055. Shri T. K. Chaudhuri:** (a) Will the Minister of **Production** be pleased to state whether it has been decided to open up the Korba coal fields in Madhya Pradesh and to link these coal-fields with the railhead at Champa by means of a new branch railway line from Champa to Korba?

(b) Was the Korba field properly prospected and proved, and if so, by whom?

(c) What are the main conclusions or data obtained by prospecting this coal-field with regard to the various coal seams, their location, thickness and quality?

(d) Was the Coal Commissioner consulted on the advisability of opening the Korba field and what was the advice that was tendered by him?

The Parliamentary Secretary to the Minister of Production (Shri R. G. Dubey): (a) Yes.

(b) Yes. The Korba coalfield has been prospected and proved to some extent by private parties mainly Messrs. Dunlop Considine and by the Madhya Pradesh Government.

(c) From prospecting work it is revealed that altogether about twenty outcrops of coal varying in thickness from a few inches to 150 ft. have now been known to occur at different parts of the field. Of these, the Ghordewa (5 ft.), Rajgamar (6 ft.) seam are most attractive, but there is every probability that workable sections of the Korba (Jatrag) (70 ft.) and Sonpuri (26 ft.) will be found. Some of the samples both from the Ghordewa seam and Rajgamar seam indicate that the coal is of high quality.

(d) Yes, he was consulted and the development of Korba was favoured by the Coal Commissioner.

Shri T. K. Chaudhuri: May I know, Sir, whether it is a fact that Messrs. Dunlop Considine Company, a German concern has been given mining lease for only ten sq. miles of the Korba field to the west of the River Hasdo while the new line would be on the east side of the river?

Shri R. G. Dubey: Yes, Sir. They have been given licence for ten square miles.

श्री जांगड़े : क्या में जान सकता हुं कि कोरबा क्षेत्र में कोयले की खदानों को खोदन के लिए और ठेका लेने के लिए कितनी दरखास्तें आई हैं और कोयला खदानों का काम कब शुरू किया जा रहा है, और क्या यह सच नहीं है कि जो रेल चांप से कोरबा तक जाती है उससे कोयले की खदान कहीं दूर उत्तर की ओर है ?

श्री आर० जी० दुबे: कितनी दरखास्तें आयी हैं यह तो में नहीं बतला सकता लेकिन अब तक कोरबा कोलफील्ड के क्षेत्र में करीब करीब बीस-ब्लाक्स बनाये गये हैं और यह प्राइवेट पार्टीज़ को बांटे गये हैं ।

सरदार ए० एस० सहगल : क्या यह सही है कि जो पश्चिमी लोग हैं उन लोगों को कोल माइन्स का ज्यादा ठेका दिया गय है बनिस्बत उन लोगों के जो कि खास हिन्दुस्तान के रहने वाले हैं ?

श्री आर० जी० दुबे : वैसी चीज़ कोई नहीं है ।

Shri P. C. Bose: Has the coal been properly analysed and what is the grade of the coal?

Shri R. G. Dubey: Yes, Sir, the coal was analysed by the Coal Grading Board and it has been found, after examination, that it is upto the specifications laid down by the Coal Grading Board.

Shri K. K. Basu: May I know the period for which the lease has been granted to Messrs. Dunlop Company and what is the royalty they will pay?

Shri T. K. Chaudhuri: Is it a fact that there are no large scale consuming centres near about, and did the Government take into consideration, before deciding on opening this rail-head, that coal production in other coal-fields in Central India, Bihar and Bengal are languishing for lack of proper supply of transport facilities? It transpires from the answer given by the hon. Minister that......

Mr. Deputy-Speaker: The hon. Member is starting a discussion!

The Minister of Production (Shri K. C. Reddy): I may say that the whole question has been thoroughly gone into by several important bodies including the working party on coal recently—about two years back. Even before that, the Coal-fields Enquiry Committee had gone into the whole question and it was their main, definite recommendation that the Korba coal-fields should be opened up. Recently, other surveys were also made. The Planning Commission also recommended the Korba Coal Field must be opened, and it was also provided in the five year plan. It was after having thoroughly gone into the whole question, and also the factors mentioned by the hon. Member, namely, the availability of coal, their quality, etc., that it was finally decided to open up these fields. And from a long range point of view, it was thought that it will be most advantageous to the nation, and only after these considerations were gone into fully, that development of the Korba Coal-fields has been decided upon.

Several Hon. Members *rose—*

Mr. Deputy-Speaker: I have allowed six or seven questions on this. The original person who has tabled the question was allowed three questions and whoever was interested in Madhya Pradesh was allowed supplementary questions

Shri K. C. Reddy: For the information of the House, I am prepared to circulate a note on this subject.

Mr. Deputy-Speaker: Next question.

Shri K. C. Reddy: May I suggest that all the three questions. 1056, 1057 and 1058, concerning the Hindusthan Housing Factory may be taken together? All these relate to the Hindusthan Housing Factory.

Mr. Deputy-Speaker: Yes.

HINDUSTHAN HOUSING FACTORY

***1056. Shri Matthen:** (a) Will the Minister of **Production** be pleased to refer to starred question No. 104 asked on the 17th February, 1953 and state the progress of the Hindusthan Housing Factory Ltd. (former Government Housing Factory) since they have taken charge of their factory and assets?

(b) Are Basakha Singh Wallenborg Ltd. still the Managing Agents of the said factory?

(c) Has there been any change in the constitution or personnel of this managing agency firm?

(d) Is the Swedish Firm still cooperating with the Managing Agents?

(e) If not, have Messrs. Basakha Singh secured any other technical advisers in place of the former?

The Minister of Production (Shri K. C. Reddy): (a) The Hindusthan Housing Factory Limited took over the buildings, plant and machinery of the Government Housing Factory on the 1st April 1953. At present they are busy reconditioning and repairing these machinery and buildings and appreciable progress has been made in this regard. They are also putting up additional constructions wherever necessary, procuring additional machinery from Messrs. Basakha Singh Wallenborg Ltd. on lease, and making necessary arrangements for starting production in all sections by about October, 1953.

(b) to (e). There was no proposal or intention at any time to appoint Managing Agents. Messrs. Basakha Singh Wallenborg Limited are equal partners with the Government of India in the Hindusthan Housing Factory Limited, a private Limited Company set up to manage the affairs of the Factory. There has been no change in the constitution or personnel of Messrs. Basakha Singh Wallenborg Limited. The foreign partners in that firm continue to co-operate.

MACHINERY FOR THE HINDUSTHAN HOUSING FACTORY

***1057. Shri Matthen:** (a) Will the Minister of **Production** be pleased to state whether the machinery for the Hindusthan Housing Factory referred to in the answer to starred question No. 104 asked on the 17th February, 1953, has arrived or not?

(b) Have the Company been able to manufacture pre-stress concrete articles?

(c) If so, what is the quantity and value of the same?

The Minister of Production (Shri K. C. Reddy): (a) The following items of machinery have already arrived:—

(i) Pipe making plant.

(ii) Wood-working plant.

Machinery for pre-stressed concrete manufacture has already been shipped from Europe.

Machinery suitable for steel fabrication and a few minor items of laboratory and other equipment not available in India are being ordered and procured abroad.

(b) and (c). The company expects to start production of pre-stressed concrete components in November, 1953.

PAYMENT OF RENT BY HINDUSTHAN HOUSING FACTORY

***1058. Shri Matthen:** (a) Will the Minister of **Production** be pleased to state whether the Hindusthan Housing Factory has paid any part of the rent stipulated in the agreement?

(b) What is the present position of the large stock of material of the old Government Housing Factory and who is in charge of them?

(c) Are any of those materials in the possession of the new company?

(d) If so, what is its value?

The Minister of Production (Shri K. C. Reddy): (a) Not yet. Under clause 11 of the agreement dated 6th December 1952 between the Government of India and Messrs. Basakha Singh Wallenborg Limited, the Hindusthan Housing Factory Limited have been permitted to defer payment of rent for the first three years if there are not enough profits.

(b) A portion of the surplus stocks, valued at about 1·75 lakhs has been transferred to the Central Public Works Department. The rest are being disposed of mainly through the Directorate-General of Supplies and Disposals. A small Government cell retained in the Housing Factory, Jangpura, is in charge of maintenance of the stores till they are disposed of.

(c) No.

(d) Does not arise.

Shri Matthen: Has not the aluminium part of the stores worth about Rs. 30 lakhs been disposed of?

Shri K. C. Reddy: The whole value of the surplus store is about Rs. 35 lakhs. I do not know at present what is the exact value of the aluminium part of the stores. As I said, attempts are being made to dispose of all these stores through the Directorate-General of Supplies and Disposals. I may inform the hon. Member that a special meeting is being convened in the next few days in order to expedite the whole process and to see what best value we can get for these stores.

Shri Matthen: Is the hon. Minister happy about these arrangements?

Mr. Deputy-Speaker: It is only subjective.

Shri K. C. Reddy: In this world of ours, Sir. one can only be as happy as circumstances permit.

Kumari Annie Mascarene: May I know whether the Government are again investing any amount in this business.

Shri K. C. Reddy: No, Sir. One of the main items in the agreement entered into between the company and the Government is that all additional machinery has to be imported by and the value thereof will have to be met by our partners, Messrs. Basakha Singh Wallenborg Limited.

Shri K. K. Basu: May I know whether the premium was received by the Government in granting the lease, and whether the rent is dependent on the profit there?

Shri K. C. Reddy: The rent is to be calculated on the equivalent to the depreciation that has to be allowed according to the Income-tax Law. It does not depend on profits, excepting to a limited extent. As I have said, we can defer payment of rent for the first three years—not write off.

Sardar A. S. Saigal: Is the value of the surplus stores—Rs. 35 lakhs—the book value that was originally spent by Government on those articles or is it the market value?

Shri K. C. Reddy: It is the book value.

Shri Radha Raman: What is the latest position of the losses so far incurred on this account?

Shri K. C. Reddy: So far as the new company is concerned, no losses have so far resulted. It is too early to say whether they have earned a profit or loss. Probably the hon. Member is referring to the losses incurred by the old Housing Factory.

Mr. Deputy-Speaker: Is the hon. Minister in a position to give that answer?

Shri K. C. Reddy: It has not been worked out. It has to be worked out finally.

Shri Natesan: May I know, Sir, the actual cash invested by Messrs. Basakha Singh Wallenborg Limited?

Shri K. C. Reddy: As I have said, they have already imported certain items of machinery. I do not know the exact amount spent by them upto now. But the estimate is, they are expected to invest about Rs. 17 lakhs for the additional machinery and at least about Rs. 10 lakhs for the working capital.

Shri Matthen: What is the value of the machinery imported by Basakha Singh Wallenborg Limited?

Shri K. C. Reddy: The total cost which is expected to be incurred is Rs. 17 lakhs. I am not in a position to say what exactly they have incurred so far.

VISAKHAPATNAM SHIPYARD

***1060. Dr. Lanka Sundaram:** Will the Minister of **Production** be pleased to state:

(a) whether the Planning Commission had stated that about twenty ships to the aggregate tonnage of 100,000 tons G.R.T. will be built at the Visakhapatnam Shipyard during the period of the Plan *i.e.*, 1951-52 to 1955-56;

(b) whether it is a fact that keels for five ships have been laid from the beginning of the planning period up to now; and

(c) when it is proposed to lay the keels for further fifteen ships at Visakhapatnam?

The Minister of Production (Shri K. C. Reddy): (a) Yes, a statement envisaging such a programme has been made in the "Programmes of Industrial Development 1951-56" published by the Planning Commission.

(b) Keels of six ships have been laid since the beginning of the Plan period. Two ships were completed of which the keels had been laid before the Plan period.

(c) Besides the *five* ships already delivered during the Plan period, *three* ships for which keels have been laid are under construction. The shipyard propose to lay the keels for *seven* more ships before the end of 1954-55. At this stage no definite indication can be given of the programme for any subsequent period.

WRITTEN ANSWERS TO QUESTIONS

DISPLACED PERSONS IN MANIPUR

***1059. Shri Rishang Keishing:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the facilities provided to the displaced persons settled in the rural areas of Manipur for raising their crops, medical help and education of their children;

(b) whether money provided by the Central Government to the displaced students in Manipur for giving financial assistance has lapsed every year from 1949; and

(c) if so, the reason why displaced students are not being given further financial assistance?

The Minister of Rehabilitation (Shri A. P. Jain): (a) The following facilities have been provided:—

(i) Land for cultivation and homestead;

(ii) Loan for the construction of huts, purchase of seeds, cattle and agricultural implements;

(iii) Food loans for maintenance till the next harvest;

(iv) Medical Officers of the nearest dispensaries are required to visit the colonies twice a week;

(v) Four schools have been opened for the primary education of children of displaced persons. They are provided free books, stationery and free tuition.

(vi) Construction of suitable channels and dams for providing irrigational facilities has also been sanctioned.

(b) and (c). Under the general scheme of financial assistance sanctioned by the Ministry of Rehabilitation State Governments have been authorised to grant stipends to deserving displaced students reading in recognised schools. It appears that the Manipur Government has not operated the scheme so far. They are being asked to extend these facilities to deserving students.

Rock Salt (Import)

***1061. Shri M. L. Agrawal:** (a) Will the Minister of **Production** be pleased to state the conditions and restrictions if any, regulating the import into India of rock salt from West Pakistan?

(b) Are the Government of Pakistan willing to export rock salt to India on barter basis or otherwise?

(c) If not, are the Government of India intending to negotiate therefor with the Government of Pakistan?

The Minister of Production (Shri K. C. Reddy): (a) to (c). India became self-sufficient in salt in 1951. Since then, our production has continued to be and is still on the increase with the result that our problem for some time past has been to find foreign markets for our exportable surplus which during this year is expected to mount up to a little less than two crore maunds. In these circumstances, to permit imports of salt will be highly detrimental to the indigenous salt industry apart from wasting foreign exchange on unnecessary imports. In regard to rock salt, Government are satisfied, on expert advice, that refined salt, which is available in sufficient quantities, is as good as rock salt for all purposes. Government have accordingly decided that it is neither necessary nor in the national interest to permit imports of any type of salt from any country.

Messrs. Lever Brothers (India) Ltd.

***1062. Shri K. K. Basu:** (a) Will the Minister of **Commerce and Industry** be pleased to state whether permission has been granted to Messrs. Lever Brothers (India) Ltd., for developing its manufacturing unit to increase its production?

(b) What will be the total increased production?

(c) What will be the effect on the existing production capacity?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) An application was received about the middle of 1951 from this firm for the installation of a continuous process plant which would result *inter alia* in increased production of Glycerine. No decision has as yet been reached on this application.

(b) and (c). Do not arise.

Indians in Ceylon

***1064. Shri S. N. Das:** Will the **Prime Minister** be pleased to state:

(a) whether persons of Indian origin have suffered in any way during the recent disturbances that took place in Ceylon; and

(b) if so, what is the nature and extent of loss suffered by them?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) Three shops in Colombo belonging to Indians were looted.

(b) The loss is roughly estimated at about a lakh of rupees.

रुई (आयात)

***१०६५. श्री आर० एस० तिवारी:** क्या वाणिज्य तथा उद्योग मंत्री यह बतलाने की कृपा करेंगे कि क्या अमेरिकन रूई के आयात के लिये १९५३-५४ के लिये पहिले से अधिक अनुज्ञप्तियां दी गई हैं।

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): No licences are being issued at present for the import of American cotton during 1953-54.

NATIONAL EXTENSION CENTRES

*1066. **Shri Achuthan:** (a) Will the Minister of **Planning** be pleased to state the number of National Extension Centres and Development Blocks that are going to be opened in Travancore-Cochin State?

(b) When are they to be opened?

(c) Have Government noticed the speeches made by Shri Dey, the Special Officer of the Community Projects, when he visited Travancore-Cochin State in May 1953, defining the special features and the special remedies to Travancore-Cochin State?

(d) Did Shri Dey submit any report to this effect and if so, when?

(e) Will these Development Projects (Community Projects, National Extension service and Development Blocks) be of the same pattern throughout the country or will these vary according to the needs and special features of the State?

(f) If so, what will be the special features in Travancore-Cochin State?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) three National Extension Service Blocks and one Community Development Block.

(b) 2nd October, 1953.

(c) Yes.

(d) Yes, in June, 1953.

(e) and (f). A general pattern has been indicated as a guide. Programmes of development will be varied or adjusted to suit local conditions.

COIR

*1067. **Shri Achuthan:** (a) Will the Minister of **Commerce and Industry** be pleased to state the latest trend in the export of coir products from India, when compared to the year 1952?

(b) What is the latest stock position of coir products when compared to the year 1952?

(c) Have the prices of this commodity increased or decreased during the second half of 1953?

(d) Have Government any idea of the number of people employed in this industry?

(e) If so, what is the approximate number?

The Minister of Commerce (Shri Karmarkar): (a) Exports are on the increase.

(b) Information is being collected and will be laid on the Table of the House.

(c) Increased.

(d) and (e). About 6,00,000.

STEEL PLANT PROJECT

*1068. **Shri H. N. Mukerjee:** Will the Minister of **Production** be pleased to state the amount spent on the three foreign consultant firms which were invited in 1948 to advise Government on the projected setting-up of one-million-ton steel factory or two half-million-ton factories as State enterprises?

The Minister of Production (Shri K. C. Reddy): Rs. 10,70,000 inclusive of travelling expenses was the total amount paid to all the three Consultant firms.

HINDI VERSIONS OF COMMUNIQUES ETC.

*1069. **Dr. M. M. Das:** (a) Will the Minister of **Information and Broadcasting** be pleased to state whether it is a fact that important statements, announcements, communiques etc., are delivered to the English correspondents of the Press very early while in the case of Rashtrabhasha version, there is a delay of several hours resulting in a serious handicap to that section of the Press?

(b) What is the strength of the staff engaged on the English side and the Hindi side of the Press Information Bureau and is the latter well-equipped to cope with the work?

(c) If not, what steps are being taken by the Press Information Bureau so as to make the service more efficient particularly on the Hindi side?

The Minister of Information and Broadcasting (Dr. Keskar): (a) Important statements, announcements, communiques etc. in English are distributed to Press correspondents by the Press Information Bureau as soon as the required number of cyclostyled copies have been made. Copies of the statement, announcement, communique etc. in Hindi are also distributed to Press correspondents as soon as the translation has been completed and the necessary number of copies have been cyclostyled. It is not always possible to distribute both the English and Hindi version simultaneously.

(b) and (c). No proportion of the staff of the Press Information Bureau can be assigned as being engaged solely on the English side since the collection of information and preparation of material for the Press as a whole is a common responsibility of Information Officers attached to the various Ministries. The Hindi Section of the Press Information Bureau consists of one Information Officer, two Assistant Information Officers, two Information Assistants, two Translators and three Hindi typists. The section, besides rendering the material collected into Hindi, studies the requirements of the Hindi Press and keeps Ministries informed of the main editorial comments and views expressed in these newspapers. The question as to whether the present staff is adequate is under consideration. Every effort is, however, being made to make available the Hindi version along with the English version where communiques, Press Notes, statements, announcements etc. are received in advance and in other cases as early as practicable. Early and late shifts have been introduced in the Hindi Section and a special evening delivery exclusively for Hindi Press services has been started for the distribution of late afternoon announcements.

CANES

542. **Shri V. P. Nayar:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the yearly value of articles made in India from canes and rattans;

(b) the yearly requirements of canes and rattans in India at present;

(c) the value of canes and rattans imported into India from Singapore and other places;

(d) whether the Government of India have so far taken any steps to process Indian canes and rattans to make them more suitable for use in furniture and other manufactures; and

(e) the number of workers engaged in industries using canes and rattans?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) The information is not available.

(b) 5,43,000 Cwts. approximately.

(c) Rs. 11,15,360/-, on an average, in the last three years.

(d) The Forest Research Institute, Dehra Dun has recently taken up this investigation along with the scheme on the introduction of Singapore canes into India.

(e) We have no information.

TECHNICAL INSTITUTE WORKERS' UNION, FARIDABAD

543. **Shri V. P. Nayar:** Will the Minister of **Rehabilitation** be pleased to state:

(a) whether the Technical Institute Workers' Union, Faridabad, has submitted their demands to the Administrator of Faridabad:

(b) whether Government propose to place a copy of these demands on the Table of the House:

(c) whether it is a fact that the Workers' Union had issued a tool-down and hunger-strike notice on the 30th July, 1953: and

(d) if so, what action Government have taken in the matter?

The Minister of Rehabilitation (Shri A. P. Jain): (a) and (b). A statement is laid on the Table of the House giving the demands of the

Technical Institute Workers' Union and the up-to-date position regarding these demands. [*See* Appendix V, annexure No. 30.]

(c) Yes.

(d) Detailed replies were sent to all the demands of the Workers' Union. The futility of the tool-down and hunger strike was also impressed upon the workers and they were informed that these acts will be illegal.

TECHNICAL INSTITUTE, FARIDABAD

544. Shri V. P. Nayar: Will the Minister of **Rehabilitation** be pleased to state:

(a) whether it is a fact that the Workers' Union of the Technical Institute, Faridabad, has requested the Administrator for instituting an enquiry into the losses incurred by the Institution; and

(b) whether Government propose to lay on the Table of the House a copy of the Administrator's communication to the Union on this subject?

The Minister of Rehabilitation (Shri A. P. Jain): (a) No such request was made but the Workers' Union raised the general question of mismanagement.

(b) Does not arise.

MANAGER, TECHNICAL INSTITUTE, FARIDABAD

545. Shri V. P. Nayar: Will the Minister of **Rehabilitation** be pleased to state:

(a) whether Government will lay on the Table of the House details regarding the duties and powers of the Manager of the Technical Institute, Faridabad;

(b) the amount of money which he can sanction without reference to his superiors;

(c) the amount of Government money which he is authorised to keep:

(d) whether any security deposit has been taken from him;

(e) if so, the amount;

(f) his pay and allowances;

(g) the factories in Faridabad which have been closed down after his joining duty, if any;

(h) his technical and general qualifications;

(i) who appointed him to his present post; and

(j) whether any reference about filling up the post held by him was made to the Union Public Service Commission or any other Selection Board?

The Minister of Rehabilitation (Shri A. P. Jain): (a) A statement is laid on the Table of the House. [*See* Appendix V, annexure No. 31]

(b) and (c). Nil.

(d) and (e). Yes, a fidelity bond of Rs. 10,000 has been furnished by him.

(f) Re. 1/- p.m. plus 33-1/3 per cent. of the net profits on industries under his charge.

(g) None.

(h) Considerable experience as Managing Director of Private Firms engaged in the manufacture and distribution of machinery.

(i) Faridabad Development Board.

(j) No.

ADMINISTRATOR, FARIDABAD DEVELOPMENT BOARD

546. Shri V. P. Nayar: Will the Minister of **Rehabilitation** be pleased to state:

(a) the present total emoluments of the Administrator of the Faridabad Development Board, Faridabad; and

(b) what were the special considerations which weighed with Government in selecting him to this post?

The Minister of Rehabilitation (Shri A. P. Jain): (a) Rs. 2,100/-. Pension being held in abeyance.

(b) Administrative experience and ability. The pay that he was drawing at the time of retirement was also taken into consideration.

FARIDABAD TOWNSHIP

547. **Shri V. P. Nayar:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the total expenditure incurred by the Government of India upto the 15th August, 1953 on the new Township of Faridabad;

(b) the total number of displaced persons accommodated in the township;

(c) the number of persons under registered and unregistered employment in the township during the years 1949-50 to 1952-53; and

(d) the per family and *per capita* expenditure on rehabilitation of displaced persons in the Colony?

The Minister of Rehabilitation (Shri A. P. Jain): (a) Rs. 3,24,20,120/-.

(b) 24,846.

(c) 1949-50
1950-51 } Information is not available.
1951-52

1952-53—(i) Registered displaced persons employed. 4,028

(ii) Unregistered displaced persons employed. 731

(d) Rehabilitation expenditure per family .. Rs. 7,981/-

Rehabilitation expenditure *per capita* .. .. Rs. 1,495/-

EXPORT TRADE

548. **Shri M. S. Gurupadaswamy:** (a) Will the Minister of **Commerce and Industry** be pleased to state the total value of exports of the country upto the end of July 1953?

(b) What is the ratio between finished products and non-finished products in these exports?

(c) Will there be a change in export policy in the latter half of this year?

The Minister of Commerce (Shri Karmarkar): (a) Rs. 2,84,48 lakhs.

(b) The percentage share of each group of commodities in the total value of exports in the period January-June 1953 was as follows:—

Group	Value in lakhs of Rupees	
	Total value of exports	Percentage share
	Rs.	Rs.
1. Food, Drink and Tobacco	62,09	25·3
2. Raw materials & produce & articles mainly unmanufactured	67,26	27·4
3. Articles wholly or mainly manufactured	1,13,64	46·5
4. Living animals	49	0·2
5. Postal Articles	1,52	0·6

Commodity-wise break up of exports in July 1953 is not yet available.

(c) About 90 per cent. of the export trade is virtually free from restrictions. The question of further liberalisation is considered periodically in the light of conditions from time to time.

NEWSPRINT

549. Dr. Ram Subhag Singh: Will the Minister of **Commerce and Industry** be pleased to state:

(a) the value of newsprint imported from Sweden during the year 1952-53; and

(b) the total value of newsprint imported from other countries during the said period?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari):

(a) Rs. 45,46,979.

(b) Rs. 4,55,88,937.

BUILDINGS FOR FACTORY WORKERS

550. Dr. Ram Subhag Singh: (a) Will the Minister of **Works, Housing and Supply** be pleased to state whether Government have given grants for constructing buildings for factory workers to certain State Governments on a half-loan and half-subsidy basis?

(b) If so, to which State Governments have such grants been given?

(c) What are the amounts of such grants?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) Yes, Sir; under the Government of India's Subsididized Industrial Housing Scheme.

(b) and (c). A statement is placed on the Table of the House. [*See* Appendix V, annexure No. 32]

JEWELLERY OF DISPLACED PERSONS

551. Babu Ramnarayan Singh: Will the Minister of **Rehabilitation** be pleased to state:

(a) the total number of displaced persons who left their ornaments and jewellery in the lockers of Imperial Bank Branches in Pakistan during the post-Partition disturbances;

(b) the approximate value of such valuable goods so deposited;

(c) the number of evacuees from India who left such valuables in the Imperial Bank Branches in India;

(d) the estimated value of such valuables left by them in India;

(e) whether Government propose to help these displaced persons in recovering their valuables; and

(f) if so, how?

The Minister of Rehabilitation (Shri A. P. Jain): (a) to (d). The information is not available.

(e) to (f). Yes. The question of release, transfer of lockers and safe deposits is under discussion with the Government of Pakistan.

DISPLACED PERSONS IN MANIPUR

552. Shri Rishang Keishing: Will the Minister of **Rehabilitation** be pleased to state:

(a) the amount of (i) professional loan, (ii) business loan and (iii) house-building loan provided to a middle class displaced family from Pakistan in Manipur;

(b) whether Government are aware of the delay in allotment of land for building residential houses to the middle class displaced families in Manipur; and

(c) whether Government propose to take some steps in this regard?

The Minister of Rehabilitation (Shri A. P. Jain): (a) to (c). No rehabilitation loans have been granted to middle class families of displaced persons by the Government of Manipur; as it has been reported by the State Government that almost all the middle class families are gainfully employed. A scheme for the allotment of plots and grant of house building loans is, however, under consideration by the State Government.

DISPLACED PERSONS IN MANIPUR

553. **Shri Rishang Keishing:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the actual number of displaced persons from Pakistan who are staying in the Manipur State;

(b) the amount allotted by the Central Government for the purpose of rehabilitation of the displaced persons for the years 1949, 1950, 1951, 1952 and 1953;

(c) whether all the money allotted has been spent for the purpose for which it was allotted each year from 1949; and

(d) if not, the reasons therefor?

The Minister of Rehabilitation (Shri A. P. Jain): (a) 515 families from East Pakistan and 31 families from West Pakistan.

(b)—

Year.	Rehabilitation loans. Rs.	Rehabilitation Grants. Rs.	Total Rs.
1949-50	..	..	..
1950-51	1,00,000	..	1,00,000
1951-52	1,86,784	15,000	2,01,784
1952-53	1,33,000	15,000	1,48,000
1953-54(Up to) 31-7-1953	38,520	10,000	48,520
TOTAL	4,58,304	40,000	4,98,304

(c) and (d). Almost all the amount allotted has been spent. Against Rs. 4,98,304 the expenditure upto 31st July 1953 is Rs. 4,27,158. The reason for the non-utilisation of Rs. 71,146 is that the allotment of funds is made on the estimates worked out some time in advance and in actual working sometimes the target is not always achieved.

ROCK SALT

554. **Shri M. L. Agrawal:** Will the Minister of **Production** be pleased to state the quantities of rock salt that have been imported into India from the West Pakistan each year from 1948 to 1953 and at what rates?

The Minister of Production (Shri K. C. Reddy): A statement is laid on the Table of the House. [*See* Appendix V, annexure No. 33.]

FILMS

555. **Shri K. C. Sodhia:** (a) Will the Minister of **Information and Broadcasting** be pleased to state the total number of new films examined by the Board of Film Censors during January to July, 1953?

(b) How many of them are under 'A' Certificate?

(c) What is the agency to check that only adults are admitted when these films are exhibited?

(d) How many appeals did Government receive against the decisions of the Censor Board?

(e) In how many cases were the appeals successful?

The Minister of Information and Broadcasting (Dr. Keskar): (a) 1390.

(b) 17.

(c) It is the responsibility of the various State Governments to see that adults only are admitted.

(d) During the period from January to July 1953, 7 appeals were received.

(e) 5 were unsuccessful; 2 are under consideration.

GRANT TO NEW DELHI MUNICIPAL COMMITTEE

556. **Shri K. C. Sodhia:** (a) Will the Minister of **Works, Housing and Supply** be pleased to state the total

amount of grant or contribution given by the Central Government to the New Delhi Municipal Committee during 1952-53?

(b) What are the special unremunerative services for which these contributions were made?

(c) What is the total assessment on Government buildings made by the Municipality during the year?

(d) What is the total amount of taxes paid by Government to the Municipality?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) No grant or contribution other than that for special unremunerative services connected with Government development works, was made by the Central Government, to the New Delhi Municipal Committee, during 1952-53. The total amount contributed on account of such Government development works during 1952-53 was Rs. 46·5 Lacs (in round figures).

(b) A statement is laid on the Table of the House. [*See* Appendix V, annexure No. 34.]

(c) Rs. 20·3 lacs.

(d) Rs. 17·8 lacs.

GRANT-IN-AID TO KHADI INSTITUTIONS OR PRODUCTION CENTRES

557. Pandit Lingaraj Misra: (a) Will the Minister of **Commerce and Industry** be pleased to state which are the Khadi Institutions or Production Centres of the different States that have been given grants, loans or subsidies?

(b) What are the amounts given to them?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) and (b). A statement is laid on the Table of the House. [*See* Appendix V, annexure No. 35.]

CHILDREN'S PROGRAMME ON A.I.R.

558. Prof. D. C. Sharma: Will the Minister of **Information and Broadcasting** be pleased to state the efforts that are being made to increase the popularity and utility of children's programme on All India Radio?

The Minister of Information and Broadcasting (Dr. Keskar): The following varieties of items have been introduced to increase the popularity and utility of children's programmes on A.I.R.

Popularity.

(i) Quiz and Radio magazine programmes,

(ii) Poetry, essay and short story competitions,

(iii) Audience in the Studio at the time of the broadcast,

(iv) Holding of children's festivals,

(v) Formation of Children's Leagues or Clubs.

Utility.

(i) Combination of entertainment with education and information,

(ii) Frequent broadcast of historical plays and features, biographical sketches and travelogues,

(iii) Interviews with eminent personalities,

(iv) Interesting discussions on animal life and scientific subjects,

(v) Hobbies for children,

(vi) Sports,

(vii) Music lessons,

(viii) Outside broadcasts on visit to a factory, institution etc.

ACC. NO. [illegible]
Dated 24.11.201

THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

HOUSE OF THE PEOPLE

Saturday, 5th September, 1953

The House met at a Quarter Past Eignt of the Clock

[MR DEPUTY-SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

9-15 A.M.

PAPERS LAID ON THE TABLE

(1) PATIALA AND EAST PUNJAB States Union Occupancy Tenants MALKIYAT RIGHTS ACT

(2) PATIALA AND EAST PUNJAB STATES UNION OCCUPANCY TENANTS (VESTING OF PROPRIETARY RIGHTS) ACT

The Minister of Home Affairs and States (Dr. Katju): Sir, I beg to lay on the Table a copy of each of the following Acts, under sub-section (3) of section 3 of the Patiala and East Punjab States Union Legislature (Delegation of Powers) Act, 1953:—

(i) The Patiala and East Punjab States Union Abolition of Ala Malkiyat Rights Act, 1953 (President's Act II of 1953). [*Placed in the Library. See* No. S-118/53]; and

(ii) The Patiala and East Punjab States Union Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 (President's Act III of 1953). [*Placed in the Library. See* No. S-119/53.]

ESTATE DUTY BILL—*Contd.*

Clause 9.— (*Gifts within a certain period before death*)—Contd.

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the Bill to provide for the levy and collection of an estate duty, as reported by the Select Committee. Clause 9 is under consideration.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): May I submit, Sir, that I shall be in charge of the Bill till my colleague comes?

Mr. Deputy-Speaker: Mr. Trivedi. I appeal to hon. Members to be as brief as possible.

Shri U. M. Trivedi (Chittor): I have never been long, Sir. In discussing clause 9 the main objection that can be raised about this is that the clause as framed, in making these gifts *inter vivos*, has a qulification added to these gifts in the word "*bona fide*". As the clause stands, every one who makes a gift, at any time, whether it is in relation to the Estate Duty or whether it is a gift which is made for any other purpose, at all times, as this language stands, every one who makes a gift will be presumed to have made that gift not *bona fide*. This is a very great slur on the national character of the country. We give an indication that all of us are dishonest. This thing should be wiped out. Such a castigation of the whole nation is uncalled for for levying a duty. You have said here the moment a gift is made, the first and foremost thing we have to look into is this, that if a gift has been made, although

[Shri U. M. Trivedi]

it might have been made *inter vivos*, if it is within two years, you are going to challenge it wholesale without saying whether it is *bona fide* or not. In all cases such gifts are to be affected. But in cases where it is two years or more—it is not merely two years—that is for all times to come, even if a gift has been made ten years before the death, even then you will say that it is not *bona fide*. This is too much to be expected in a fiscal law. Under all fiscal provisions on the contrary, we have got interpretations of law to this effect, that if a man wriggles out of any particular provision of a fiscal measure he is allowed to wriggle out and the interpretation is always made in favour of the subject where he does not come within the letter of the law. Here, by making this provision, we are making it incumbent upon every one to prove that the gift was *bona fide*. To prove a matter on an action of a deceased person, where *mala fide* is already imputed, is difficult. Ordinarily the Evidence Act or the principles of evidence assume that whatever has been said or done or whatever statement has been made by a person who is dead must be presumed to be true. That is the fundamental principle.

Shri S. S. More (Sholapur): There is no such fundamental principle.

Shri U. M. Trivedi: You please see clause (3) of section 32. This is the ordinary principle of law that when a man is dead and gone, if he has done anything against his own pecuniary interest, under ordinary circumstances it should be presumed to be true, and it must be presumed to be *bona fide*. We are challenging that fundamental provision of law and, as I said, we are castigating the whole nation and suggesting that we are all downright rogues who will always act *mala fide*. This is too much to bear. For the sake of certain people who cannot look upon this country as their own country or as the country which has got its own culture but who are imbibed only with western ideas and think in these terms, can you say that because they think in these terms everybody in this country must think in similar terms of dishonesty? There should not be any question of imputing dishonesty to any one of us.

I had suggested that these two years must be struck off. It may be two months. I had also suggested you must say in cases where death has taken place by accident or *vis major*, this clause should not apply. But I would most humbly suggest to the hon. the Finance Minister not to have this proposition with the words as they are, namely "which shall not have been *bona fide* made two years or more before the death of the deceased shall be deemed to pass". These words "*bona fide*" must be taken out. If a gift has been made it must be accepted as a gift. Otherwise what will happen is this. Yesterday in the course of the argument one of the Members was suggesting something. Of course you yourself suggested to him that a particular provision is there to circumvent such actions till by this very provision people will be led to dishonesty. Fictitious sales will take place by way of gifts and there will be any amount of litigation and hardship. And the very use of the words "*bona fide*" will give vast powers to the Controller, whosoever he might be, and open the gate for all sorts of corruption. It was pointed out by one of the hon. Members who spoke on the last occasion that in the Income-tax Department also certain things go on. I remember a case. A man was assessed to Rs. 47,000. Then a particular thing happened. One of the Income-tax officers wanted to use his car for about 40 miles. That was not supplied. The net result was that at the next assessment, this Rs. 47,000 jumped to 8 lakhs and the amount was to be paid then and there. These things will happen. We may try to remedy these things when we reach the higher courts or higher tribunals. But, as it stands by the use of the word '*bona fide*', we are opening, I should say, the flood gate of corruption. Therefore my humble submission is that this word '*bona fide*' must be taken out. When you are already putting the limit of two years, where is the necessity for adding this word *'bona fide'*? The mere length of time of two years itself will be enough to show that the gift has been *bona fide*.

Shri Jhunjhunwala (Bhagalpur Central): The previous speaker said that it is a slur on the conduct of the people to use the word *'bona fide'* here. I do not agree with him. If it has any meaning and if it serves any purpose to have the word *'bona fide'* here, so that we could catch hold of people who are *mala fide*, even if it is a slur, I do not mind. But I have not been able to understand the purpose of putting the word *'bona fide'* here.

When we were having informal discussions with the hon. Finance Minister, there was a great discussion as to the utility of the word *'bona fide'* here. A gift under the Transfer of Property Act implies that it has been made *bona fide*. If there has been anything which does not come within the definition of the Transfer of Property Act or if there has been anything wrong, that could be regarded as *mala fide*. But, this word *'bona fide'* here—I do not know whether it is a slur or not—gives rise to misgivings. Even after the informal discussions that we had with the Finance Minister. I had occasion to meet many people and place this section before them. They simply said that this word *'bona fide'* will lead to great confusion and litigation. They were of the view that the word *'bona fide'* will immediately lead to the presumption that where a man makes a gift he did it with a view to evade payment of tax. They will immediately attack the motive. The hon. Finance Minister, in his speech while referring the matter to the Select Committee, had made it clear that the motive of the man who makes the gift will not be taken into consideration. In spite of that, this word *'bona fide'* is likely to create some misapprehension in the mind of the people. If the Transfer of Property Act under which the gift is made is not sufficient and the word *'bona fide'* is very very necessary, of course, by all means, I should say that it should be there. But, I do not see any necessity to put the word *'bona fide'* here. Even without the word *'bona fide'* the clause itself is quite sufficient.

Regarding the proviso that for all gifts made for public charitable purposes, the period will be six months, I have only to submit this, that if a man acquires some property late in his life, and wants to give something in charity and gives in charity as defined under this Act, but if he dies within six months, the property which has been given as gift is chargeable with tax. Much has been said already on this subject. But, all the same, I submit that this restriction of six months should be removed.

Shri G. D. Somani (Nagaur-Pali): Mr. Deputy-Speaker, I want to refer to my two amendments numbers 25 and 30 in regard to this clause. My hon. friend Shri Tek Chand has already very ably dealt with amendment No. 25. I would therefore confine my remarks to amendment No. 30 in regard to this period of 6 months for charities. I know much has already been said and the matter has been thoroughly discussed. But, even at this late stage, I would like to make a few observations upon the implications of this clause regarding charities.

The policy of the Government has been to promote and encourage private charities and they did so by recognising under the Income-tax Act certain classes of charities. After that concession was given, the hon. Finance Minister may be aware that several public causes and several public institutions derived much benefit. I am also aware of the fact that this concession was to a large extent responsible for very substantial contributions by several industrial concerns for the Mahatma Gandhi Memorial Fund, Sardar Patel Memorial Fund, etc. I feel that this clause, as it stands, seeks to reverse the policy of the Government in regard to charities. The clause, as it stands, will act as a positive hindrance or dis-

[Shri G. D. Somani]

couragement to the free flow of charities for public causes. The position is that any individual making any gifts within six months of death will run the risk that his successors will be called upon to pay an Estate duty not only upon the estate which he leaves to his successors, but also upon any amont or property which he may have gifted to a charity within six months of his last days. The position really is very difficult. We have been asked, why should a man wait till his last days for making charities. Firstly, I would like to ask what is the guarantee that if any man makes a charity at the age of 30 or 40 or 50, he will not die within six months of making the charity? In our country the mortality rates are high and deaths at early ages are not uncommon. In this connection, I would like to know whether the Finance Minister will accept the proposition that if any individual makes any charity up to the age of 50, he will not come within the purview of this restriction. Quite apart from that, the position is also there that individuals generally making any substantial contributions to charity, do so only in the later period of their life. One of the primary objects of this Bill is to remove inequality. Even from that point of view, I do not understand how this restriction on charity is going to further the cause which we have in view. As a matter of fact, these charities will further that cause to a greater extent than the levy of the Estate duty. For instance, if a man makes a gift of Rs. 1 lakh, then, 100 per cent. of the amount goes to the public cause. On the other hand, if under this clause he is prevented, or at any rate discouraged in making that gift, then, the utmost that the State realises is only a partial amount on the property that he leaves at the time of his death. Therefore, may I ask whether it is not preferable to give encouragement for voluntary gifts of 100 per cent. of the amount instead of forcing the individual to leave that property or estate to be charged with Estate duty at a partial rate.

The only reason that has been advanced during the course of the debate and during the discussions about this time of six months has been that it might lead to evasion of the Estate duty in many cases.

Firstly, I would ask in this connection whether in the experience of the Government of India there have been cases of evasion of tax in regard to the Income-tax Act on the lines feared by some Members. The individuals and companies get this exemption of income-tax in respect of their contributions, and I would like to know whether there have been any substantial cases of evasion, where people have taken undue advantage of the exemption. May I also ask whether it is not possible to devise certain safeguards to avoid that evasion? After all, the number of cases and the amounts involved will be far larger when people will simply be prevented or discouraged by the fear that if they make any substantial gift for charity and if unfortunately they die, within six months of making that charity, then their successors will be liable for estate duty on that substantial amount. Therefore, if proper and effective safeguards are devised—which, I submit it is quite easy and possible to do—then, there is no fear that this will lead to any extensive evasion of tax. So long as the Finance Minister is convinced that there are ways of devising effective safeguards against any abuse that is likely to arise, he should have an open mind and he should consider whether even at this late stage he cannot see his way to waive this clause imposing a restriction of six months. I submit that this will be a positive hindrance and a discouragement at least to gifts for public causes. Therefore, I appeal to the Finance Minister to go deeply into the implications of this clause and not do anything which will act as a hindrance to the free flow of charities.

Shri Raghavachari (Renukonda): I do not know whether amendment No. 511 has been moved by the Finance Minister.

The Minister of Finance (Shri C. D. Deshmukh): I have moved the first part. It is only consequential, and would not be necessary unless the second part of No. 583 is moved by Mr. Gadgil.

Mr. Deputy-Speaker: He is trying to put a monetary limit.

Shri S. S. More: When the same amendment is moved by both Mr. Gadgil and the Finance Minister, I feel like asking the reason for this division of labour. Is it to share the credit?

Mr. Deputy-Speaker: There is division of labour on all sides with respect to this clause.

Shri Raghavachari: I wish to make only one or two observations with regard to amendment No. 583 moved by Mr. Gadgil.

Before I do so, I would like to deal with amendment No. 509 by the Finance Minister. He has sought the deletion of the words "or more". If this amendment is carried, the provision will read: "Made two years before the death". Now, the question is: should it be, in point of time, only two years —I mean, just two years, and not a second more; not a second less. In other parts of this legislation, we have used the phrase "not less than two years", etc. Therefore, it would be more appropriate to say "made before two years of the death". If you put the word "before" before "two years". it would be more meaningful. It is a slight verbal alteration.

Mr. Deputy-Speaker: The hon. Member is referring to the exact point of time. If you say only "two years", even if it be made a second before "two years" elapse, technically it would be out of order. If "or more" is omitted, you will have only "two years" and that would mean, in point of time, just two years and not a second more and not a second less.

Shri C. D. Deshmukh: The word "before" is there, Sir. I am only removing "or more", and it would now read: "made two years before the death"

Mr. Deputy-Speaker: Then, what is the object of removing "or more"?

Shri A. M. Thomas (Ernakulam): Because in the English Act it is without the words "or more" and no difficulty has been found there.

Shri Raghavachari: In other portions of this Bill, we have used the expressions, "not more than two years", "not less than two years" etc. If you use a phrase here which is not of that type, then it will lead to an argument as to whether it is just two years in point of time; that sort of construction will be possible.

Shri C. D. Deshmukh: Let me tell my hon. friend that on this point I have a perfectly open mind.

Shri Raghavachari: If that is so, then I would only say that if you are going to omit "or more", you should put the word "before" before "two years", so that it will read: "before two years of the death".

As regards other amendments, I join with the group of friends who urged that there was great need for omitting "*bona fide*". They advanced elaborate arguments. They pointed out that it will simply lead to endless litigation, and even if a man has made a gift years ago and the Controller says that it is not *bona fide*, it is always disputable and it is liable to harass people. Therefore, "*bona fide*" has no place there, unless it be that we want to restrain people from exercising their rights.

Now, I come to amendment No. 583. It looks as though the Finance Minister is favourably inclined towards accepting it, because he has himself tabled a similar amendment, except that this amendment of Mr. Gadgil seeks to introduce something more. In his amendment, Mr. Gadgil has suggested a limit of Rs. 5000. To some extent, it is a concession—possibly—to the agitation that went on in this House. I

[Shri Raghavachari]

want to understand the exact scope of this amendment. It reads:

> "..shall not apply to gifts made in consideration of marriage or which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased......"

He can make a gift in consideration of marriage. There, no question of proving it to be a normal expenditure arises. In other cases, the gifts must be proved to be part of the normal expenditure. That means, in every case of gift, a record or account must be maintained, showing that the person making the gift did incur similar expenditure on account of the purposes covered by the gift as part of his normal expenditure during his lifetime. And it is only then that that part of the gift would be permissible. That would again mean putting the same kind of obstacle in the way of the administration or in the way of the beneficiary having to take the trouble of taking up and preserving the records to show that it was part of the normal expenditure of the man who had made the gift.

Then again, the other trouble also is there, that it must be proved to the satisfaction of the Controller. Everything is to the satisfaction of the Controller; in the whole Act, all the facts must be proved to the satisfaction of the Controller. As if that was not sufficient, this additional phrase 'to the satisfaction of the Controller' would simply mean a particular discretion vested according to the Bill in that particular person, and once he has exercised it, there is an end of the matter. Therefore I feel this phrase is quite unnecessary. It will only lead to additional bother in the administration.

As regards the limit of Rs. 5000, I am not very much bothered. Originally there was nothing, now a further attempt has been made to salvage Rs. 5000 more. But the main question is the language in which it is put. It is not very easily comprehensible, and in the course of administration, it is likely to lead to practically not conceding anything at all, if you want that it should be proved to the satisfaction of the Controller and that it was all part of the normal expenditure of the man who has made the gift. Now we find the additional provision for gifts made in consideration of marriage. In the original amendment which Mr. Deshmukh wanted to move, this was not there. I thought that it was one thing if it was in consideration of a marriage, and quite another, if it is some other kind of relationship. Anyhow, the language that we find here is:

> "...gifts made in consideration of marriage or which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased and to have been reasonable having regard to the amount of his income or to the circumstance, but not exceeding rupees five thousand in the aggregate."

The language is clumsy and certainly not clear. In any event I submit that the words 'to the satisfaction of the Controller', and 'normal expenditure' should be omitted. Otherwise, when you have a fixed limit of Rs. 5000 it will mean nothing. You must be graceful, and you must also have an eye on the inconveniences you are likely to cause in the administration, by this language. Once you put a limit, there is an end of the matter a man may be given the liberty of paying anything up to that amount. Or do not put the limit, and make it subject to proving it to be part of the normal expenditure of the man.

Shri Gadgil (Poona Central): There is a large number of amendments to clause 9, which can be classified as follows. Certain amendments seek to extend the time, while certain others want to reduce the time. No doubt, it is true that in other countries, the most vulnerable point of any system of estate duty has been the creation of gifts and other dispositions. If it were possible to start without all this, then it would have been very good, and we would have avoided those consequences which were referred to by Mr. Gandhi yesterday. Since we have accepted in the Select Committee the principle that inasmuch as this is a new measure that we are introducing in in the life of the community as well as in our system of taxation, we should rather go slow.

In England, the original period was two years. Now it has been raised to five years. There are certain amendments here, which seek to extend the period to five years; certain amendments there are which want to reduce the period to one year, and in the case of public charities, they want no limit at all. I think that on the whole what was decided by the Select Committee should be acceptable to this hon. House.

Another precaution that has been taken in this clause is that although the period is only two years, the fact that the proof of *bona fide* will have to be given is a fair safeguard, for all sorts of doubtful and suspicious alienation. The question of *bona fide* according to certain observations made by Mr. Chatterjee last time, do not really and necessarily relate to the desire to avoid estate duty. My own view, however humble it may be, is different, that *bona fide* has to do, not secondarily but essentially, with the intention of the man, whether he has an intention to avoid estate duty or not. If the intention was to avoid estate duty, then obviously his gift is invalid and not genuine and he cannot get the benefit contemplated in this clause.

Shri A. M. Thomas: The English authorities do not support you.

Shri C. D. Pande (Naini Tal Distt. *cum* Almora Distt.—South West *cum* Bareilly Distt.—North): Avoiding duty is permissible, but it should be *bona fide* in the sense that transfer is absolute and genuine.

Shri Gadgil: My interpretation of the words '*bona fide*' has been given earlier, and I do not propose to repeat it now. It deals directly with the intention of the man, whether he wants to get out of this obligation to pay estate duty or not.

Shri C. D. Pande: The Finance Minister, in a committee, was pleased to say otherwise....... (*Interruptions*)

Mr. Deputy-Speaker: Order, order. Let the hon. Member proceed. Each Member has had his opportunity.

Shri Gadgil: On the whole I think that the period mentioned in clause 9, both for private gifts as well as for public charities should remain.

The question that there should be no limit on public charities has been sufficiently discussed, and I do not think that we should give a wide margin for charity. If anybody wants to give in charity, surely he can give it six months before his death. No time is inauspicious for that purpose. It can be continually given. As I said last time, by allowing a wide margin, for charity, what we would do is that the entire corpus will be allowed to get out of this taxation, for eternity. If the corpus goes out of this, and the current income also will be exempt under the Income-Tax Act, the result will be that the community loses for eternity, whatever you give by way of charity, apart from the fact...

Shri Dhulekar (Jhansi Distt.—South): Community gains by public charity.

Shri Gadgil:...that you allow private persons to deal with the social reorganisation which you have in contemplation. Such a huge power should not be allowed. That is my humble submission.

Then there is an amendment moved for exemption being given to *bhoodan*. To ask for exemption in matters of *bhoodan* gifts is to bring down that high and noble movement from the high pedestal it maintains, to mundane affairs. The whole concept of *bhoodan*. is *yajna*. That means sacrifice pure

[Shri Gadgil]

and simple, and no sacrifice can be complete, unless everything is completely given. To suggest therefore that *bhoodan* gift should be completely exempt is, I honestly feel...

Mr. Deputy-Speaker: The hon. Member evidently feels that along with *bhoodan*, some *dakshina* also is necessary.

Shri Gadgil: When you give a house to a Brahmin—nowadays nobody does it and nobody will ever do it—apart from the house, you give also some money. That is the custom even among the *Marwaris and* Gujratis. If they want to give Rs. 1000, they will always give Rs. 1001. This *'Shubhanka'* is just the same thing as estate duty in this case. If you are paying estate duty, you are giving a *dan* or gift to the whole community, whereas *bhoodan* will be only to a certain section of it. I therefore respectfully submit that no exemption should be given, because if we do give exemption, we would be taking away the grace, beauty and spiritual significance of that movement. However, there may be very hard cases, where a man who has received a gift, may, under this clause, in some far off contingency, be called upon to pay a *proportionate amount.* In that case, I submit, there is power left to the Government under clause 32 to exempt. I am sure our Government also will do it, having in mind the whole background of the bhoodan movement. But to have anything like a statutory provision in this Bill would not be good.

Then, regarding the amendment that I have moved, it is in response to the appeal of—and in fact, the lacuna pointed out by—Shri Chatterjee. He asked—and quite rightly—what about certain gifts, small or big, made in a period between two years prior to death and the actual date of death? Those may be customary gifts. It may be that the deceased gave his daughter in marriage, say, six month before. It may be called a gift, and if a strict and legalistic view of the whole thing is taken, the deceased's successors will have to pay on it. So this amendment exempts this and other gifts which are normal and reasonable. The word 'normal' is used with a certain meaning, as also the word 'reasonable'. 'Reasonable' has relation to the resources of the person. As regards 'normal', the interpretation is, what is customary. There are customs in each community, in sub-communities also, which require that whenever there is a friend's daughter's marriage you have to give something; or whenever there is a birth, the incoming of a young man, you have to give something. Similarly you pay to some of your dependants by way of monthly allowance. Similarly there are the clubs; you pay the subscription. There are certain holy obligations, for example on *'Ekadashi'* day you have to give something. So what is normal is to be considered with respect to the position of the deceased in the community and the customs of that community, and whatever reasonable is to be considered in relation to his resources. Suppose I am a man getting about Rs. 500. A year before my death, suddenly I give some Rs. 2000 to my nephew. I never give it; on Divali holidays I used to give Rs. 100. But if I give Rs. 2000, it really raises a suspicion because it is not reasonable, although to give something is normal. Under these circumstances, the words 'normal' and 'reasonable' are advisedly used and they have the meaning as I have suggested. Therefore, in order to see that the State treasury does not lose much on the one hand, and on the other those things which are normal and reasonable are allowed, an overall ceiling of Rs. 5000 has been fixed. I submit that in the circumstances I have detailed this is a very reasonable amendment and it has to be read along with the amendment moved by Shri Deshmukh. The two together form the lungs of this conception.

Shri S. S. More: On a point of clarification, Sir. According to my friend Mr. Gadgil, the provisions of sub-section (1) shall not apply to gifts made in consideration of marriage. Is he not giving legal form to the pernicious system of dowry?

Shri Gadgil: The limit is Rs. 5000. As a matter of fact, I am doing something for social advancement.

Mr. Deputy-Speaker: Jewels and other gifts.

Shri S. S. More: Another point, Sir. He says "but not exceeding Rs. 5000 in the aggregate". Possibly it may be said that the ceiling fixed refers to other gifts.

Mr. Deputy-Speaker: I thought that was the intention—not regarding marriage. Is that so?

Shri S. S. More: Does he mean gifts in consideration of marriage as well as other gifts? If that is so, it is not brought out here. Possibly it may be said that this clause restricts it only in regard to other gifts.

Mr. Deputy-Speaker: This Rs. 5000 will apply to other gifts and to marriage also.

Shri C. D. Pande: Including the club fee?

Shri Gadgil: The overall aggregate ceiling is Rs. 5000. So far as marriages are concerned, already a provision is made for deduction for each female—every daughter or female dependent—for the purposes of marriage.

Shri S. S. More: But that is for expenses, not for gifts.

Shri N. P. Nathwani (Sorath): May I seek a clarification Sir. Will the aggregate amount of Rs. 5000 cover both sets of gifts or it will cover only one?

Shri Gadgil: Both.

Shri C. D. Pande: All manner of gifts.

Shri T. S. A. Chettiar (Tiruppur): Before going further let me point out that what Mr. Gadgil referred to in clause 32 was for a provision for future marriages. That should not be confused with the provision that is sought to be made under this section. And so the explanation that he sought to give created some sort of misunderstanding in the House. If somebody has four daughters whose marriage had been celebrated within two years, the provision that will be allowed under this amendment now will be Rs. 5000 for all those marriages and for all the usual gifts within those two years. I want the House to appreciate the implications of this amendment so that it will be voted upon fully understanding those implications.

10 A.M.

Now let me raise a few points on the clause itself as well as my amendment. This caluse 9 refers to two kinds of gifts. One is gifts to relatives and to others. That is the first portion of the clause. For that the conditions are that it must be *bona fide* and it must be more than two years old. The second category is gifts to public charitable institutions. As far as I am concerned I am not very much interested in the first category, because paying tax does not do bad to them. But I am bound to point out that these two conditions imposed, that it must be *bona fide* as well as more than two years old is bound to cause hardship in certain cases. I have heard the legal interpretation with regard to '*bona fide*'. I am not myself a practising lawyer; I do not presume to know much about law. But what I have been told is that if once transfer is made, then it is tantamount to *bona fide*. Those are the decisions. But I would like to know one thing. My hon. friend on the other side who is an ex-judge and a legal luminary said the other day "Suppose somebody says, 'After I die in a couple of years, I give such and such to so and so'. If in the deed itself, there is no reference made, but a complete transfer is made, I would like to know what is the position. I am referring to this because I want things to be understood so that there will not be harassing procedures adopted.

Then the other point is this. Even if it is more than two years—some gifts are five years old, some ten years old—if the Controller thinks that it is not *bona fide*, then it is bound to be reopened by him. These are matters which, I think, ought to be dealt with. I am anxious that no evasion should

[Shri T. S. A. Chettiar]

be allowed. I am anxious that people who want to evade tax must be caught and must be made to pay tax. But I am also anxious that unnecessary harassment should not happen. As far as I see, Government have made up their mind to see that these words exist there. But I would at least ask them to issue executive instructions to see that normally cases of more than two years' duration are not reopened unless there is concrete evidence to prove that it was not intended to be a *bona fide* gift.

Now I come to the second and, in my opinion, more important, point—with regard to gifts to charitable institutions. I am one of those who believe that we as a nation should encourage these things. My hon. friend, Mr. Somani, said that this provision may prevent gifts being made. I do not think that it will prevent gifts being made, but, I am sure, to some extent it will act as a deterrent. I am one of those who believe that money given to charitable institutions is much better used than money given to Government. Having, as I do, experience of administration of Government, I know the wasteful expenditure in Government departments. (*Interruptions*). In running schools, running colleges, running dispensaries and running hospitals, much more money is spent in Government institutions; and much more economically the same thing is achieved and with greater missionary zeal and personal touch by charitable institutions. So I am one of those who believe that charitable institutions must be supported.

My hon. friend. Mr. Gadgil, in an expansive mood, said when he made his previous speech: "My own submission is that we have come to a stage in our social evolution where private charity is not going to solve any public problem". But I am afraid that is not an opinion which is shared by the Government of India which has set up a Planning Commission, and the Planning Commission is evolving its plans for social welfare definitely on the basis of the help of social service institutions. (*Interruption* by **Shri Gadgil**).

May I refer to page 95 of the recommendations in the Five Year Plan? They definitely say:

> "In view of the inadequacy of resources, a large share of responsibility for social services will have to be borne by the people themselves. In the case of education, there is evidence that the people are keen to contribute in cash, kind, labour and land for creating the necessary facilities. It should be the major aim of the Central and State Governments and non-official organisations to explore this avenue and harness this urge in the people by using their influence, providing technical aid and stimulating public opinion."

The Government are wise in taking that attitude. Coming to my own State, which I know well, there are nearly 35 to 36 thousand elementary schools in the province of which 18,000 are maintained by aided agencies; there are nearly 900 High schools in my province of which nearly 500 are maintained by aided agencies; there are nearly 75 colleges. out of which nearly, 40 are maintained by aided agencies. By aided agencies I mean that government gives them a grant, a particular proportion, it may be 50 per cent., or it may be two-thirds. The rest is found by raising public contributions and public donations. I know from experience that the spread of education and medical facilities is possible only through the help of these aided agencies who will organise public charity in our country. The personal touch, the personal devotion and the personal zeal and missionary spirit which is necessary for the advancement of social services can be provided to a large extent only by private institutions. So I am one of those who believe that whatever law we may make, whatever provisions we may make, we must make them to this end that they will support and help in the growth of the social service institutions, that we may help in the giving of gifts to such institutions and that we will so arrange things that these institutions will get support from the public; and, from that point of view the Income-tax Act is an improvement. When my hon. friend Shanmukham Chetty was here, he introduced a provision, setcoin 15B which said that up to 10 per cent. of the income of individuals and up tc 5 per cent. of the income of companies, contributions may be made to recognised charities, and that those contributions will not be taxable within certain limits. Latterly we have had an amendment reducing that 10 per cent. to 5 per cent. and making certain other conditions with regard to gifts. But, still it is an improvement in the right direction because we encourage people to give to charitable institutions by saying that the amount thus paid within a 5 per cent. limit will not be taxed.

In the Estate duty Bill we are doing something just the opposite. What have we done? We say even with regard to gifts to public charitable institutions, even with regard to *bona fide* gifts, gifts to institutions which come under the definition of charitable institution accepted by this House, they will not be debarred from taxation, if they are given within six months. If they are given within six months of the death, then even these *bona fide* gifts, these gifts to institutions which are well recognised, big hospitals, recognised colleges, even Government colleges—for example, we have beautiful colleges in our country just as the Karaikudi College which has risen out of private munificence of a great man (nearly 30 or 40 lakhs of rupees has been invested and it is one of the best education centres in South India)—then tax will have to be collected even from them. To my mind, Sir, this is not a desirable state of affairs. I do not want to say more on this point because it is well understood. Amendments have been moved to remove this period and that this period need not apply to gifts to public institutions. I do not want to take more time of the House on this point and I would request that that amendment may be accepted.

One other matter, and that is my own amendment. There have been many aircrashes in our country. Now the Government have taken up the management of the Air Companies.

An Hon. Member: More accidents.

Shri T. S. A. Chettiar: My friend here says that there will be more accidents. Let us not hope so. When these accidents happen certain people die who did not expect to die. These deaths are unforeseen ond it is difficult for anybody to say that these things were planned even two years before, so that tax may be evaded. At least in the case of deaths due to accidents I shall be glad if the Government will see its way to accept that gifts made by people who have been victims of accidents do not come within the mischief of this section.

Shri N. C. Chatterjee (Hooghly): Clause 9 has one particular object. The object is to bring under charge of estate duty gifts made *inter vivos* within a period of two years before death or in case of gifts for public charitable purposes within six months before death. Now, I want to make three points and I wish to submit very few suggestions in support of my argument.

This is the first time that estate duty is being introduced in India. I submit it is both reasonable and necessary that the time-limit of two years should be reduced to one year, in the case of ordinary gifts *inter vivos*.

My second submission is as far as gifts for public charitable purposes are concerned, there is no point in having a time-limit. Why should you fix six months at all? Under the Australian Act, section 2 sub-section (5), there is no such time-limit. Estate duty is not at all leviable or payable in respect of gifts to scientific public purposes, public hospitals and public benevolent institutions or to any fund maintained for the relief of persons in necessitous circumstances. So, I submit that the same thing should be done in India.

[Shri N. C. Chatterjee]

Thirdly, I come to the *bona fide* business. I thought there was a *bona fide* end to all this dispute about the meaning of the word *bona fide*, but some *mala fide* mind is still haunting us.

Shri Gadgil: It is on the other side.

Shri N. C. Chatterjee: You may remember that you have copied this from the English Finance Act of 1894. I made my point clear when we were considering the general discussion, that Mr. Gadgil's suggestion should be firmly rejected because if it were to be accepted that will be a terror and an engine of oppression. It will be a source of money-making and it will be putting the onus and the burden of proof will fall on people who cannot possibly discharge that burden. A man makes a gift today and some 20 years later dies. Then Mr. Gadgil says that we have got to prove affirmatively that there was a *bona fide* gift. There was a document executed on the possession of the transfer of interests to the exclusion of the donor, but you also show that there was no intention at all effecting payment of death duty when you die 20 years later. God alone knows when you will die!

Mr. Deputy-Speaker: It is not Mr. Gadgil, but the Select Committee.

Shri N. C. Chatterjee: The Select Committee did not say that. What I am pointing out is that the Select Committee did not at all take the interpretation of Mr. Gadgil. The Select Committee took the interpretation of English law. I am reading Green's "Death Duties" which is our Bible. In that book—1952 edition, page 17, Mr. Green says, "The words, '*bona fide*', are in effect merely an express indication that the substance of the transaction should be considered. *Bona fide* transaction is one which is not fictitious or which is not coloured, but real and genuine." "It is immaterial," Mr. Green says, "that the motive would have been to lessen the death duty." What does it matter that the motive was that when I would die ten years later...

Mr. Deputy-Speaker: Just to cut short the debate, I might say that wherever there is an agreement, we might pass on to the next point. Mr. Gadgil's own interpretation may be there.

Shri C. D. Pande: It will be quoted in the courts of law.

Shri Gadgil: It is his opinion.

Mr. Deputy-Speaker: Mr. Gadgil's opinion is not Government's opinion. And whatever might be the Government's opinion, the court's opinion is different.

Shri C. D. Pande: Generally courts need not be guided by the opinions expressed here, but lawyers quote the discussions to prove the intention of law and there is great relevancy in doing so. I will put to the Finance Minister directly—in a Committee he said that he accepted Mr. Chatterjee's interpretation and he also said that he looks to English interpretation. Today, he should make it clear.

Shri N. C. Chatterjee: Let me complete. We do not want Mr. Gadgil's interpretation,—with great respect to him. Lord Atkinson has made the law clear on this matter. I am reading from Dymond's "*Death Duty*" at page 17:—

Lord Atkinson said:

> "The transactions were real and genuine as opposed to colourable transactions. It is admitted that the motive which prompted the Duke of Richmond to enter into these transactions was to relieve from the payment of Estate Duty those estates which upon his death would pass to another or others. That motive does not vitiate the transactions."

Such a transaction might not come within the description "*bona fide* commercial transaction". But it will still be a *bona fide* gift *inter vivos* which comes within section 9. I submit there will be no difficulty.

Sir, I had pointed out that both Mr. Gadgil and the Finance Minister were good enough to appreciate the force of my submission. We have omitted—it is a pure omission—"normal and reasonable expenditure". They must be brought in, in consideration of the marriage, and they have accepted it. In England, there is absolutely no limit, no ceiling, and you cannot fix a limit. You will be reducing it to absurdity when, say, three daughters are to be married. In that case, how can you fix it at Rs. 5,000? Either make it reasonable, or don't have it at all. In England, there is absolutely nothing of the kind. The English law says "normal and reasonable, having regard to the income of the person concerned". I submit that the same thing should be done here.

Just look at Mr. Gadgil's amendment which is No. 583. He says:

> "The provisions of sub-section (1) shall not apply to gifts made in consideration of marriage or which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased and to have been reasonable having regard to the amount of his income or to the circumstances, but not exceeding Rs. 5,000 in the aggregate."

You stop there, with the words, "to the circumstances". That is English law. Why add these words, "but not exceeding rupees five thousand in the aggregate"? My amendment omits this ceiling and it would be unfair, very unreasonable to say "not exceeding Rs. 5,000", and then leave it to the Controller. You must take the country as it is. You are not legislating for every problem. You cannot possibly force all kinds of social reform by this kind of penal provision in a statute dealing with estate duty. I am suggesting to the hon. Finance Minister that this ceiling should not be there and the House should not fix any such ceiling of Rs. 5,000 in the aggregate for all kinds of things. As Green says, whom I quoted earlier, it may be reasonable for a man to give his sister a large proportion of his income if he is a bachelor, while the sister is a widow with young children. Supposing that gift is made, 50 per cent. goes there. That itself comes to Rs. 5,000 in two years. Then you cannot possibly make any other normal gifts or any other public subscriptions. Supposing a man is in the habit of paying something to a society or some organization, that should be allowed. Suppose a Muslim goes to Haj—just two years before death, then, he has to spend large sums of money in charity. He has got to do it under the canonical law. That is barred out. That is not proper. I submit, that that should be deleted, and my humble submission is that it will be a protection if these words are omitted.

Now, about one thing for which I am sorry. I am sorry that the Finance Minister said that. I can understand Mr. Gadgil saying that. Is it a proviso under clause 32? What is the proviso? You are providing, according to the Finance Minister's amendment No. 539, for an exemption. You remember clause 32 is an exemption clause. You are putting in that clause some provision for exemption. Exemption for what?

> "Moneys earmarked under policies of insurance or declarations of trust or settlements effected or made by a deceased parent or natural guardian for the marriage of any of his female relatives ......" etc.

This means, if I make provision for the marriage of my daughters, then that would be exempted. This is a prospective marriage—*post mortem*—and we are now thinking of the past—*ante-mortem*—of actual marriages that have already happened. These wordings should not be confused. That is something that will happen after death. But this is something that precedes that.

Shrimati Sushama Sen (Bhagalpur South): My amendment in clause 9 is No. 220. I may just add a few words to that clause. I beg to move:

In page 5, *after* line 17, *add*:

> "Provided always that the conditions herein contained shall not apply if death is the result of an accident or of any *vis major*."

I think this is a very important amendment, and if the House will accept it and if the hon. Finance Minister would accept it, it will be good. I would appeal to the hon. Finance Minister once more to accept the amendment, although it is a sort of hopeless effort perhaps.

Clause 9 deals with gifts within a certain period before death, but if there is an accident and if there is death which is the result of any *vis major*, surely, the family should not be penalized for that. I agree with Shri Gadgil in as far as he has said just now that this is absolutely a new taxation, hitherto unknown in the country, and so we have to go slow. So, I would press this amendment, as I think it very necessary to exempt in cases of accident.

Shri Krishna Chandra (Mathura Distt.—West): My amendment is No. 644. It runs thus:

In page 5, *after* line 19, *insert*:

> "Provided further that in the case of gifts whenever and howsoever made in favour of person in succession or in favour of person likely to be person in succession if the succession was to open on the date of the gift, the property taken as a gift shall be deemed to pass on the donor's death."

The amendment is quite clear. It means......

Mr. Deputy-Speaker: That is making it stricter. Is it not more limited in scope?

Shri Krishna Chandra: Yes, Sir; it is more limited in scope. It only means to bring those gifts, under which the property passes, to the persons who are likely to succeed. I have heard Mr. Chatterjee with great care; he tried to impress that the word "*bona fide*" should be deleted.

Shri C. D. Pande: Not deleted, but the interpretation of Mr. Deshmukh may be put on it, not the interpretation of Shri Gadgil.

Shri Krishna Chandra: I have followed him. The hon. the Finance Minister has been quite reasonable, I should say rather generous, in accepting the amendments to water down this Bill. He has been accepting amendments after amendments which aim at watering down this measure. It is perhaps due to his impression—which I say is not well founded—that the opinions voiced in this House are generally for such exemptions. If we analyse the list of amendments we will find that they can be divided into two broad divisions: One of those aim to make this measure a strict measure, a fit instrument to achieve the professed aim which has been declared too often by the hon. the Finance Minister—that this measure is aimed to achieve a social objective. On the other hand there are amendments which want to water down the provisions of this Bill and it has been a misfortune that the opinions voiced in this House have often been predominantly on the latter side, that is, those opinions which aim to water down this Bill have been more vocal. But, if you scrutinise the amendments tabled, you will find that there are a number of amendments from those who want to make this measure a fit instrument. The misfortune has, however, been that those people have either failed to catch your eye or they have not been assertive enough to speak in this House. But there is no dearth of such amendments which mean to make this measure a fit instrument.

Now, coming to my point, I feel that if the word "*bona fide*" is removed then gifts which have been made to successors in the family only for the purpose of evasion of duty will be taken out of the property. I will give an example. A father has four sons, and, as is generally the case in this country, the father has implicit confidence and trust in his sons. He knows that his sons will never betray him. He can always gift his property to his sons and remain confident that those sons will support him in his old age.

Shri Dhulekar: They will not.

Shri Krishna Chandra: It may be your conception, but that is not correct.

The property is gifted and the gifts so far as the legal instrument of transfer are concerned are perfect. The transfer has been made, the possession has been given. But the proceeds of the property may be utilised for the joint benefit of the whole family and may continue to be so utilised. I think such gifts will be taken out if this word "*bona fide*" remains here. If the hon. the Finance Minister is kind enough to accept my amendment,—he will see it has got a very limited scope,—then such gifts will go out of the purview. But even if he does not see his way to accept my amendment, I would only entreat him not to be moved by the arguments made in this House for the omission of the words "*bona fide*". The words "*bona fide*" may to an extent serve the purpose which my amendment seeks to serve.

There is no reason why gifts made to persons in succession should not be taxed. If we take another point of view in this connection it is after all an unearned income. A relative, a son, or any other near successor, gets the property in gift from the father or from any other relative. Then, it is an unearned thing for him. When we are taxing earned income in this country it is a misfortune that there is no law in this country to tax such unearned income. A person gets a good amount in a lottery, but that amount is not liable to the payment of income-tax. It should be. If we exempt even such gifts from being taxed under the Estate Duty Bill, it will be quite unreasonable. The donee here gets the property in gift without putting in any labour and that property is utilised for the benefit of the family.

In the end I would appeal to the Finance Minister that he should be kind enough to accept my amendment which has got a very limited scope. If he does not see his way to accept my amendment, then he should not agree to remove the word "*bona fide*".

Shri K. K. Basu (Diamond Harbour): My amendment No. 446 speaks for itself. The principle and our point of view underlying this amendment will be found in the minute of dissent appended by us to the Report of the Select Committee. On account of the lapse of time that has happened from the time the Bill was first mooted in 1946 and now, a number of persons would be able to evade the tax. We have therefore suggested that the period should be five years. But Mr. Gadgil, who is practically the governing spirit behind this Bill as it is understood in this House, has already replied to our suggestion. I do not wish to enter into a long discussion, but I think Mr. Gadgil's interpretation of the meaning of the word "*bona fide*" will not be accepted by the courts of law. Because, as you know, under the Muslim law it is only possession that is required. Once a transfer is allowed to be made—and that is the very basis of this clause—that means that the persons who make a gift to the successor, or whoever it may be, are allowed to do so. Then the question of *bona fide* is not quite tenable. Of course in our country there are *benami* transactions which may be brought under the purview of this section.

But I would like to suggest one amendment to the amendment moved by Mr. Gadgil (No. 583). I hope the hon. Member will hear me. I want to move an amendment—I have no

[Shri K. K. Basu]

time to move an amendment, therefore I would like to suggest a modification to the amendment moved by Mr. Gadgil where he wants to put a new sub-section. (*An Hon. Member*: He is not hearing you, he is reading.) The Finance Minister is hearing. I would suggest the deletion of the words "and to have been reasonable having regard to the amount of his income or to the circumstances" in that amendment. When you want to restrict the amount to Rs. 5,000, why do you bring in the judgment and discretion of the Controller to determine whether that sum was reasonable in the context of the income and the social position he held? Considering for a moment that a person is allowed to make a gift to the extent of the maximum of Rs. 5,000, the maximum that the exchequer would lose will be Rs. 1,800 (it is 38 point something of the total tax) even from the person who is in a position to pay at the maximum rate. Therefore, if this particular expression "and to have been reasonable having regard to the amount of his income or to the circumstances" is allowed to be put in this clause, there may be occasions for disputes; the Controller may have a different view; it will go in appeal. As I said, the maximum loss to the exchequer will be only Rs. 1,700 or Rs. 1,800. And in the case of lower limits it may be only Rs. 100 or Rs. 200. Therefore I suggest that instead of complicating things, particularly when you want to put a maximum limit, that particular provision should go away. In our country, on account of the social structure, possibly one person may be a middle-class man. He might have inherited from his relations some jewellery or something which may be of the value of Rs. 4,500. If he has only one daughter or a son he might have made a gift. In that event, if the person's earning was only, say, Rs. 200, you may say he is not entitled to own so much jewellery. I do not say the Controller will always take an unreasonable view. But when you have put a maximum limit to the amount, it is better that this particular expression "and to have been reasonable having regard to the amount of his income or to the circumstances" should go away so as to avoid complication.

Shri N. Somana (Coorg): I want to make a humble suggestion. I would request the hon. the Finance Minister not to press his amendment to delete the words "or more", because that might complicate the issues. I think the expression as it is, is perfectly clear.

Mr. Deputy-Speaker: The Finance Minister has said that he is always open to conviction so far as "or more" is concerned.

Shri N. Somana: I would request him not to press for the deletion of the words "or more".

Mr. Deputy-Speaker: He said he will consider.

Shri Dhulekar: I want to suggest that in the amendment of Mr. Gadgil the words "but not exceeding rupees five thousand in the aggregate" may be deleted. When they have already given powers to the Controller to exercise his judgment, to investigate and to see whether the expenditure is normal or according to the circumstances, then the Controller who is a very high placed person should not be saddled with this limitation that he *should determine* only up to Rs. 5,000. Suppose it is Rs. 5,200. He will be helpless. I think he should be credited with some knowledge of the people and the country.

Shri R. K. Choudhury (Gauhati): Do you expect to influence him?

Shri Dhulekar: I think Shri Gadgil also will agree to this.

बाबू रामनारायण सिंह (हजारीबाग–पश्चिम) : उपाध्यक्ष जी, में केवल दो, तीन मिनट में अपनी बात समाप्त कर दूंगा ।

उपाध्यक्ष महोदय : आप भी क्लैरीफ़िकेशन करना चाहते हैं, अच्छा कर लीजिये ।

बाबू रामनारायण सिंह : उपाध्यक्ष जी, मैं वित्त मंत्री महोदय से यह बात जानना चाहता हूं कि कोई सम्पत्ति वाला व्यक्ति अगर मर गया और उस के पास पांच लाख रुपये के करीब की सम्पत्ति थी, तो उसका दो लाख तो दान में गया और तीन लाख उसके उत्तराधिकारी पाते हैं, तो जो कर लगेगा वह केवल उत्तराधिकारी से वसूल किया जायगा या जिन लोगों को दान दिया गया है, उन लोगों से भी यह कर लिया जायेगा ?

उपाध्यक्ष महोदय : दान पाने वाले से भी वसूल किया जायेगा ।

श्री सी० डी० देशमुख : पहले उत्तराधिकारी से वसूल किया जायेगा, फिर जिस को दान दिया गया है, उस से वसूल किया जायेगा ।

बाबू रामनारायण सिंह : मेरा निवेदन है कि सारी सभा इस बारे में खूब ठीक से सोचे कि यह तो कहा जा रहा है कि दान जो बोनाफ़ाइडी हो, तो उस पर कर नहीं लगेगा लेकिन मैं सरकार से कहूंगा, संसद के सदस्यों से कहूंगा कि यह तो हो कि दान बोनाफ़ाइडी हो, लेकिन साथ ही इस विषय पर बहस भी बोनाफ़ाइडी हो, बोनाफ़ाइड वोटिंग हो और बोनाफ़ाइडी तरीके से यह पास भी हो । यह हमारे देश की संस्कृति है कि मरे हुए व्यक्ति की नीयत पर हम कोई बात नहीं करते, उस की निन्दा नहीं करते । एक आदमी दान दे कर के मर गया, अब चार वर्ष के बाद कहना कि उस ने बेईमानी से दान दिया, ठीक से दान नहीं दिया, यह हमारी संस्कृति के प्रतिकूल बात हो रही है । एक तो इस तरह का क़ानून हमारे देश में कभी नहीं था, नये नये क़ानून बना कर उनका पहाड़ हमारे देश के लोगों के ऊपर लादा जा रहा है । अब बतलाइये यह कैसे साबित हो कि यह दान ठीक से किया गया, बोनाफ़ाइडी दान किया गया, उस के लिये बोनाफ़ाइडी सबूत हों, उस के लिए दो वर्ष उस को जीना पड़ेगा । यदि इस सरकार के हाथ में, वित्त मंत्री के हाथ में अथवा हमारे भाई गाडगिल के हाथ में हो कि बोनाफ़ाइडी दान होने के बाद दाता दो वर्ष जरूर जिये अगर वह दान व्यक्तिगत दान है और अगर वह सार्वजनिक कार्य के हेतु दान है, तो कम से कम छै महीने तक जिये, ऐसा कोई उपाय यदि सरकार के पास हो, तब तो यह धारा स्वीकृत होनी चाहिए । लेकिन यह तो सभी जानते हैं कि मृत्यु पर किसी का अधिकार नहीं है इसलिये मैं वित्त मंत्री से कहूंगा कि दान करने का कोई ऐसा उपाय करें कि ठीक दान करने पर आदमी कम से कम छै महीने जिये । अगर इसका वह कोई उपाय कर सकते हों, तब तो यह धारा रहे, नहीं तो यह धारा नहीं पास होनी चाहिये । मैं इसका विरोध करता हूं ।

Shri C. D. Deshmukh: I shall first deal with my amendment No. 509.

Mr. Deputy-Speaker: Omission of 'or more'.

Shri C. D. Deshmukh: I have heard hon. Members express some doubt about the wisdom of carrying through this amendment. I know that in clause 11 I have not suggested a similar amendment and there it puts it the opposite way, "...... *bona fide* effected or suffered not less than two years before the death......" To be strictly consistent, I should have moved an amendment for this wording 'not less......' In the English rulings, I find "beginning with the second year" and so on. Therefore, there is not much to be gained either way. I will not press this amendment and I shall at the right time ask your leave and the leave of the House to withdraw it.

In regard to all other amendments, I am sorry I have to oppose them

[Shri C. D. Deshmukh]

except of course my own, which is consequential, and 583. I may as well say here that I think that what the hon. Member Mr. Basu has suggested is reasonable. In regard to 'reasonable' what he has suggested is reasonable. Because, the fixation of ceiling itself is a kind of constructive meaning attached to 'reasonable'. Therefore, one need not go again into what is reasonable. Therefore, one has to content himself with saying, "......part of the normal expenditure of the deceased having regard to the amount of his income or to the circumstances....... ." I share his fear that otherwise we are likely to get bogged down in trying to determine what is the elusive quantity 'reasonable'. If it is acceptable to the mover of the amendment, I am prepared to accept it.

Shri K. K. Basu: Once he has nodded his head.

Shri C. D. Deshmukh: Now, I will come to the main points that have been made. The first is about the period of these gifts. One general statement I should like to make is that the experience of all countries has shown that gifts shortly before death are a familiar method of evading duty. That is really the rationale of our attempt to fix some period. Some countries go farther. In Australia I think, there is a tax on gifts. Of course, the normal method is to prescribe a period within which the gifts made are dutiable. It is familiar ground; but I must mention it to round off the argument. In England, the period originally prescribed was one year. They were influenced by these generous impulses with which most hon. Members have been influenced here. Then, bitter experience made them raise it to five years. We are starting with twice as much generosity as in the U.K. and therefore we are fixing a period of two years. The point is that there is really no *a priori* basis for determining periods of this kind. It must be a matter of rule of thumb and experiment. That is why we are starting with the period as in the Bill, which seems to have appealed to the Select Committee and I think it will still find favour with the majority of the House. If experience shows that this is either inadequate or adequate, I am sure, when the occasion comes, —and there will be very many—to amend this Act, then we shall have to do something about this period also.

Now, on various occasions, on behalf of Government, we have made our attitude clear in regard to this time-limit for gifts to charitable purposes and the arguments in favour of the present period are somewhat reinforced by the more comprehensive definition that I have agreed to adopt in deference to the wishes of the majority of the Members—what I conceive to be a majority of the Members of the House, it is only a matter of sensing it. The position is, the donor will be pretty free to make gifts to any charitable purpose of his choice. That being so, it goes further and further away from the control of the State. We have made this argument that in this period, unlike other countries, we are trying to channel the resources of the country into certain priorities. Therefore, we cannot take too much of a risk of wealth flowing into some other directions which are controlled entirely by the choice of the individuals. There is nothing in this against the traditions of the country. There is no hostile intention. The champions of those who want this period to be removed or shortened are somewhat unfair to the community at large. Take this argument, for instance, that there is waste if money that flows into Government coffers. I am surprised to hear this argument from Members in this House......

Babu Ramnarayan Singh: But that is right.

Shri C. D. Deshmukh:..... .....who vote year in and year out very large funds, thousand times more than the funds which will flow into charity. Indeed, if one were to look into the private charities, how does one know that there is no waste? The only difference is that there is no audit of this expenditure. Therefore, I must say that I adhere to our position.

Then, there are various other difficulties into which I need not go. When gifts are made shortly before death, they may not be in proper form, may have been verbal, and there will always be difficulties in establishing their *bona fides*. For all these reasons, we must adhere to the provisions that are embodied in the Bill as it stands. There was a point regarding banning of all gifts to successors. As a tax gatherer, I should welcome this. But, I resist that temptation. I think here again we should learn by the experience of other countries. So far as I know there is no exception like this made in any law. May be, it is their experience, although one might expect something else, that such gifts are not more common than other kinds of gifts. If our experience is otherwise, —family ties prove stronger in this country as they well might be—and therefore a good deal of revenue escapes the net of the tax-gatherer, we shall have to review the position. In any case, it is not a succession duty although we have introduced an element here and there in some of the quick succession and other clauses, and I think we better not gradually transform it into a succession duty.

I am sorry I cannot accept the amendment that suggests that special provision be made for deaths due to accidents. Again, administratively it will be very difficult to establish causes of death, particularly by revenue officers. In any case, I think cases of accidents must be very small as compared with other cases, and as I have said before, it is not right to try to legislate for an odd remote contingency.

Then, we come to the vexed question of gifts *bona fide* made. I have already stated my own view. But, I must observe that we use the word "moving" too often in the course of the debate. It is a moving spectacle to have so many amendments. Certainly there are Movers of amendments. But when some one says that an hon. Member is a moving spirit, I think he goes too far. I stand by the opinion that I have expressed in regard to this business of *bona fide*. The essence of the matter is, I. think, that there must be no secret arrangement or reservations. That is the effect of the English decisions. It is very fortunate that for the legal diamonds amongst us, there are Dymonds and for the greens among us, there are Greens. And here is some reference—Brey in 1907—it is an old case. I won't give the reference. It sounds too much like a Court. I quote now:

> "The intention is to provide that the transaction shall be a real and genuine transaction, intended to have full and real operation without any secret or collusive arrangement or reservation, and as I found......

—this is the quotation—

> "......that all the deeds and documents here......

—in that case—

> "......were genuine instruments intended to have their full operation without any reservation of any kind, secret or otherwise, I must find, as I do find, that these encumbrances were created *bona fide*."

Then he goes on to say:

> "In my opinion, motive has nothing to do with it. In coming to the conclusion whether they were real deeds intended to have been really operative, one of the elements for consideration may be motive, but once it is found that they were real deeds, I think the motive that actuated the donor in making them is immaterial."

To my knowledge that has not been overruled, and, therefore, it is possible when the matter goes to Court, if it

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ever does, then they will possibly follow these rulings. I am not trying to give my own interpretations. I am only referring to interpretations that have been put on these words in the United Kingdom.

Now, there is only one thing—I think it finishes it—this vexed question of gifts to *Bhoodan Yajna*. Undoubtedly these will be for charitable purposes, and they will have to be made more than six months before death in order to escape the duty, but whatever one's sympathy may be with this campaign, one must realize that it is still, from a legal point of view, in an inchoate situation. One does not know yet what exactly the legal incidents are, how the land is going to be distributed, if the best form of distribution would be to co-operative societies of the landless or to individuals, what the convenience of recovery from the rest of the estate would be—because that danger was referred to by the Mover of this amendment. So, I think it is not advisable to consider this matter at this stage until the exact legal position of these lands and the rights of ownership become clearer. Also we should be treading on dangerous ground if we once start distinguishing one kind of charitable purpose from another, and in this we have had bitter experience in trying to administer the old Section 15-B of the Income-tax Act which we amended recently. Maybe that a situation would emerge in which this form of charity will stand out over the others, and it might be possible to categorise or classify them. Then, if there is a class of property, a class of persons, then there is provision for residual exercise of discretion under Clause 32.

Reverting again to this question of *bona fides* and referring to the speech made by, I think, Babu Ramnarayan Singh, the Hindi would be not सद्हेतुपूर्वक but वास्तव में a real transaction. The rendering of *bona fide* will be वास्तव में :

बाबू रामनारायण सिंह : अच्छा नियत ।

श्री सी० डी० देशमुख : नहीं, नीयत का सवाल नहीं उठता ।

Shri A. M. Thomas: Whether it was intended to take effect or not.

Shri C. D. Deshmukh: So, in reality, that amounts to a gift, and that is a matter which will always have to be determined with reference to the law on the subject, the physical facts of the transaction and so on. So, it is not necessary for me to enlarge on that point.

One last point. An appeal was made to me that even at this last minute I should agree to abandon the ceiling. I am sorry I cannot because all these really represent concessions in one form or another, and somewhere or the other one has to say "This is the kind of pattern I want about this." In other words, what I am driving at is, every single matter, if it is considered by itself, might appear very persuasive, but when you have the whole picture, then one may say one might well be content although one is not fully satisfied with some provision, and this is a provision which I have inserted originally in deference to a point raised by the hon. Member opposite who has still to do with some of the other clauses, and, as I have said yesterday, we have still to give our mind to some of the other things which arise under Clause 34. I would advise, therefore, hon. Members not to press this particular thing. I think Rs. 5,000 should be enough for all ordinary families.

Mr. Deputy-Speaker: May I ask one question? How does it happen that Rs. 5,000 is allowed to each marriage —the marriage of a daughter—after the death of the man, and why should there be a distinction? If he celebrates the marriage of his daughters before his death, he is not allowed Rs. 5,000 for each daughter. Under this amendment, whatever might be the number of daughters, he cannot spend more than Rs. 5,000, whereas if he leaves money behind after his death, it is different.

Shri C. D. Deshmukh: It is the time element. It may be that in an odd instance you might find that, say 18 months before his death, a man celebrated the marriage of ten daughters, but the greater probability is that he will marry one daughter if he is lucky enough. It is not so easy to marry daughters now. Whereas, when you refer to future marriages, well, if a man dies, it may be that when they come of age and when they are fortunate enough to be paired off, then they will be married. So, the whole process is spread over a very long period, whereas here it is only a question of what is likely to have happened within this two-year period. That is what we were considering. Therefore, the statistical probabilities of the case are that it will be only one marriage.

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Mr. Deputy-Speaker: It is clubbed along with other gifts also.

Shri A. M. Thomas: What about the words pointed out by Mr. Raghavachari "to the satisfaction of the Controller"? Do these words oust the jurisdiction of the Board of Revenue when appeals are filed?

Shri C. D. Deshmukh: Yes, Sir, that is...

Mr. Deputy-Speaker: He has already agreed to make that.

Shri C. D. Deshmukh: I have not.

Mr. Deputy-Speaker: He said "reasonable" something.

Shri C. D. Deshmukh: Again, my intention is that all these things which are not comparatively very important should not get bogged down in a court of law, and once you raise this question of what is reasonable, what is normal, is this a gift, is this for marriage, well, we say "All these things have to be established to the satisfaction of the Controller". That is quite a common legal experience. In many Acts we find "In the opinion of so-and-so". Apparently, lawyers have even found a way out of this, but we are trying to safeguard the position as much as we can.

Shri H. G. Vaishnav (Ambad): If the words "two years or more" remain, the question of Rs. 5,000/-, of course, is not restricted to the two-year period, but even more. I will just explain. If the word "more" is not there, then, of course, as the hon. Finance Minister explained, the restriction is only to two years. But, if the words "two years or more" remain there, the restriction of Rs. 5,000 will go even beyond the two-year period.

Shri C. D. Deshmukh: With regard to proving it, anything that happens before two years is really outside our ken.

Shri A. M. Thomas: May I know whether the Central Board of Revenue can enquire into the standard adopted by the Controller? That was exactly what I wanted.

Mr. Deputy-Speaker: What the hon. Member wants is this. Whereas it is not the intention of the framers of the Bill that a gift of any value for a marriage or for any other purpose—whatever might be the nature of the purpose of the gift—ought not to be affected if it is made beyond two years, the amendment as it is worded will mean the previous sub-section (i) shall not apply to cases of gifts made in consideration of marriage. That is, notwithstanding the fact that the marriage was celebrated ten years before that if a gift is more than Rs. 5,000, that gift is taboo. It is possible to bring about that construction.

Shri C. D. Deshmukh: That is not the intention

Mr. Deputy-Speaker: But we must make sure that it does not lead to a wrong interpretation. Would it not be better to say: "Notwithstanding the provisions of sub-section (1), gifts made in consideration of marriage—(then the words regarding the satisfaction of the Controller)—......if made within two years of death......"—such gifts will not be liable to estate duty?

[Mr. Deputy-Speaker]

I think if you do that, it will make the position clear.

Shri Dhulekar: If you take out the Rs. 5000 limit, whether it is two years or more, it will be all right. Then everything else can remain.

Shri N. C. Chatterjee: I wanted to put in the words: "gifts made within two years of the death..."—that will clear the position.

Mr Deputy-Speaker: Could we not say, "Notwithstanding the provisions of sub-section (1)..."?

Shri N. C. Chatterjee: That is one way. I was suggesting the following wording: "The provisions of sub-section (1) shall not apply to gifts made two years of the death......etc."

Mr. Deputy-Speaker: Very well.

Shri C. D. Deshmukh: If you do that, you are then faced with the difficulty of why we have not used the words "*bona fide*" there.

Mr. Deputy-Speaker: In regard to gifts made in consideration of marriage, no question of "*bona fides*" arises. In regard to other gifts, we have already said that they should be proved to the satisfaction of the Controller to have been part of the normal expenditure. Marriage expenditure is normal expenditure and there is no question of proving the *bona fides* there. If a gift has been made, no son-in-law would leave it. After all, it is not a very large amount . So, we need not worry about the words "*bona fide*". I am only making a suggestion.

Shri U. M. Trivedi: The original amendment of Mr. Deshmukh was all right. All this hotch-potch has been created by putting in a ceiling figure.

Mr. Deputy-Speaker: I am not concerned with the substance. The hon. Finance Minister is not willing to forego the Rs. 5000 limit. Accepting that, —lest he should create an impression which he did not want to create, *viz.* that he taboos even gifts made within two years—, he now wants to restrict that amendment to a period beyond two years. We are on this point, *viz.* "The provisions of sub-section (1) shall not apply to gifts made within two years..."

Shri C. D. Deshmukh: The position is that if we do not have Clause 9, then all gifts would be treated as not part of the property. What we are trying to do is, that we are defining gifts which shall be deemed to pass on death, that is to say, they are not really part of the property. If anyone were to ask, "What has happened to the gifts?", we will say that the ownership of it has been transferred now to somebody else. What we are now doing is that we are reversing, by this whole clause, something which has already happened, and constructively we are saying that "this is part of the property". If we say that this kind of rigour shall not apply to these gifts, then these gifts remain gifts. Therefore, in the normal construction, they would not be part of the property. Threfore, it is not necessary to put this in again—I mean the amendment suggested. The whole of clause 9 is an exception to the natural order of things, and all that we say is that the natural order will regain its force if we say that the provisions of sub-section (1) shall not apply. We exclude these from the scope of clause 9.

Mr. Deputy-Speaker: No, no. The natural order is this. Whatever was the property at the time of the deceased's death is the property which is taxable, and if before his death he had given away something, that something, according to the normal procedure, is not his property. It is not deemed to be his property.

Shri C. D. Deshmukh: That is what I am also saying. Even on his deathbed, if he has given something away, it is not his property. Ordinarily, you would not regard it as his property, but because we fear that this might be used as a way of evading estate duty, we say that gifts made for public charitable purposes, if made within six months, and other gifts as specified, if made within two years, shall not be deemed to be his property: in other words, they will be the property of somebody else. That is why we say that the provisions of clause 9 shall not apply to gifts made for so and so purposes. In view of this, it is not necessary to put it again in the exception.

Shri Dhulekar: The Finance Minister's interpretation is correct, because it takes away from the corpus of the property any gifts which are part of the normal expenditure up to a limit of Rs. 5000.

Shri C. D. Pande: You do not mean, normal daily expenditure also?

Shri Dhulekar: Normal expenditure as provided for in the section.

Mr. Deputy-Speaker: Very well. I leave it to the Finance Minister. I shall first put Mr. Gadgil's amendment, No. 583.

The question is:

In page 5,

(i) line 12, *before* "Property" insert "(1)"; and

(ii) *after* line 19, *insert:*

> "(2) The provisions of sub-section (1) shall not apply to gifts made in consideration of marriage or which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased but not exceeding rupees five thousand in the aggregate."

Shri C. D. Deshmukh: Sir, are you putting both the parts? May I point out that if you are putting the whole of amendment No. 583, I will have to ask for leave to withdraw my amendment No. 511. Mr. Gadgil had said that he was moving only the second part: but you have mentioned both the parts.

Mr. Deputy-Speaker: What is the harm? The first part of Mr. Gadgil's amendment and amendment No. 511 are indentical, I think.

Shri C. D. Deshmukh: No harm is done. I do not mind

Shri Raghavachari: The position is that Mr. Deshmukh had moved only the first part of his amendment No. 511; and Mr. Gadgil had moved only the second part of his amendment No. 583: and these two combined together, make the whole of amendment No. 583, as you have now mentioned.

Mr. Deputy-Speaker: I am advised that Mr. Gadgil had not moved the first portion of his amendment.

Shri C. D. Deshmukh: But I moved it.

Mr. Deputy-Speaker: So, Mr. Gadgil's amendment will be only the second portion of Amendment No. 583 after deleting certain words. I shall now put it to be vote of the House.

The question is:

In page 5, *after* line 19, *insert*:

> "(2) The provisions of sub-section (1) shall not apply to gifts made in consideration of marriage or which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased, but not exceeding rupees five thousand in the aggregate."

The motion was adopted.

Mr. Deputy-Speaker: I shall now put Mr. Deshmukh's amendment, the first part of No. 511 to the vote of the House.

The question is:

In page 5, line 12, *before* "Property" *insert* "(1)".

The motion was adopted.

Mr. Deputy-Speaker: Then there is amendment No. 509.

Shri C. D. Deshmukh: I wish to withdraw it.

Mr. Deputy-Speaker: Has the hon. Minister the leave of the House to withdraw his amendment?

Hon. Members: Yes.

Amendment No. 509 was, by leave of the House, withdrawn.

Mr. Deputy-Speaker: As for the other amendments, unless any hon. Member wants that his amendment should be put separately, I shall put all of them together to the vote of the House.

Shri S. S. More: May I make a submission, Sir. There are some amendments which seek to increase the period, while there are others which seek to reduce the period. So I would suggest that the amendments may be put in two separate groups. Otherwise it will be difficult for us.

Mr. Deputy-Speaker: I shall see what each hon. Member wants to be done with his amendment.

Dr. Krishnaswami (Kancheepuram): I had given an amendment that Clause 21 should be put as an explanation to clause 9. But I suppose it can be taken up when clause 21 comes up for discussion?

Mr. Deputy-Speaker: I am not able to give any ruling in advance. As and when a matter arises, I am bound to give a ruling.

What is that amendment? Has not the hon. Member moved it?

Dr. Krishnaswami: I have moved it.

Mr. Deputy-Speaker: He had told me about it yesterday, and I do not know why he has not moved, if he wants that clause 21 should be put in as an explanation to clause 9.

Dr. Krishnaswami: It has been moved already.

Mr. Deputy-Speaker: What is the amendment?

Dr. Krishnaswami: Amendment No. 225.

Mr. Deputy-Speaker: It is an amendment to clause 9, and so this is more appropriate here.

Dr. Krishnaswami: I would like to withdraw it.

Mr. Deputy-Speaker: Has the hon. Member the leave of the House to withdraw his amendment?

Hon. Members: Yes.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: We shall be merely wasting the time of the House. if the amendments are put one after the other. after our looking into them to see whether they seek to increase or reduce the period. Any hon. Member who wants his amendment to be put separately may kindly tell me.

Shri S. S. More: That will be giving us some incovenience. Supposing those who are in favour of increasing the period have to say, no, to those amendments which seek to increase the period, then it will be a little inconvenient for us, if we are to say, no, to all the amendments put together.

Mr. Deputy-Speaker: I will put Mr. More's amendments separately. Let him not worry about the other amendments.

Shri S. S. More: In one of the amendments, I seek to increase the period, and the other seeks to provide that gifts in favour of successors should not be held to be valid.

Mr. Deputy-Speaker: I shall put Amendments Nos. 481 and 482 to the vote of the House.

The question is:

In page 5, line 15, *for* "in succession, or otherwise", *substitute* "who are not in succession".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *for* "two years or more" *substitute* "five years".

The motion was negatived.

Mr. Deputy-Speaker: What about the other hon. Member's amendments?

I find some of the hon. Members are absent. I shall put all the other amendments to the vote of the House.

The question is:

In page 5, line 12, *after* "taken" *insert* "or settled".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 14, *after* "inter vivos" *insert* "other than for public charitable purposes".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5,

(i) line 14, *after* "trust" *add* "or"; and

(ii) line 15, *for* "in succession, or otherwise" *substitute* "who are not successors of the deceased".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 15, *after* "otherwise" *insert* "exceeding rupees five thousand in value".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5,

(i) lines 15 and 16, *for* "which shall not have been *bona fide* made two years or more before the death of the deceased" *substitute* "which shall have been made *mala fide* within two years before the death of the deceased"; and

(ii) *after* line 19, *insert*:

> "*Explanation.—Mala fide* in this section shall mean, with the intention of evading the duty payable under this Act".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *omit* "*bona fide*".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *omit* "*bona fide*".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *omit* "two years or more".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *for* "two" *substitute* "three".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *for* "two years" *substitute* "two months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *for* "two years" *substitute* "one year".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *for* "two years" *substitute* "five years".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *for* "two years" *substitute* "five years".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *for* "two years" *substitute* "five years".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *omit* "or more".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 16, *after* "deceased" *insert* "unless it is an accidental death".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 17, *before* "shall be" *insert* "which is not an accidental death".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 17, *add* at the end "unless death was due to *vis major* or accident".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 17, *add* at the end:

'Unless the Court otherwise determines the *bona fides* of the disposition on a suit filed by the aggrieved party within six months of the determination of the *mala fides* of the gifts."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *omit* lines 18 and 19.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *for* lines 18 and 19, *substitute*:

"Provided that—

(i) in the case of gifts made for public charitable purposes, the period shall be six months; and

(ii) in the case of gifts made to the successors, the period shall be fifteen years."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *for* lines 18 and 19, *substitute*:

"Provided that this section shall not apply to gifts made for public or charitable purposes."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *for* lines 18 and 19, *substitute*:

"Provided that gifts made for public charitable purposes shall not be deemed to pass on death."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *for* lines 18 and 19, *substitute*:

"Provided that in the case of gifts made for public charitable or religious purposes the property covered by such gifts shall not be deemed to pass on deaths."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *for* lines 18 and 19, *substitute*:

> "Provided that gifts specifically made for public charitable purposes can be made any time before the death."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 18, *omit* "public".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 18, *after* "public" *insert* "or".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 19, *for* "the period shall be six months" *substitute* "the property shall not be deemed to pass on death".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 19, *for* "the period shall be six months" *substitute* "prescribed by the Government of India, the property covered by such gifts shall not be deemed to pass on death".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 19, *for* "six months" *substitute* "six hours".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, line 19, *for* "six months" *substitute* "one year".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In the amendment No. 511 proposed by Shri C. D. Deshmukh, *add* at the end:

> "subject to a limit of rupees five thousand in the case of each marriage and rupees two thousand in the case of each donee."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *after* line 19, *insert*:

> "Provided further that the limit of two years shall not apply where death occurs due to fatal accidents or sudden unforeseen calamity".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *after* line 19, *insert*:

> "Provided further that where an absolute gift *inter vivos* is made to the Union Government to be applied in reduction of the Public Debt of India, the property so given shall be exempt from the estate duty as from the date when it is transferred to the Government".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *after* line 19, *add*:

> "Provided further that the property covered by such gifts in favour of the legal heirs of the deceased shall be deemed to pass on death."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *after* line 19, *insert*:

> "Provided further that the gifts *inter vivos* made after the 1st day

[Mr. Deputy-Speaker]

of April 1946 shall be subject to a duty not exceeding one-half of the rate under section 34."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In the amendment No. 583 proposed by Shri Narhar Vishnu Gadgil, *omit* "but not exceeding rupees five thousand in the aggregate".

That is an amendment to Mr. Gadgil's amendment.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *after* line 19, *insert*:

"Provided further that always the conditions herein contained shall not apply in the case of gifts of land made to the landless in the *Bhoomidan Yagna*".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *after* line 19, *insert*:

"Provided further that in the case of gifts whenever and howsoever made in favour of person in succession or in favour of person likely to be person in succession if the succession was to open on the date of the gift, the property taken as a gift shall be deemed to pass on the donor's death."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, *after* line 17, *add*:

"Provided always that the conditions herein contained shall not apply if death is the result of an accident or of any *vis major*."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 10.— (*Gifts whenever made etc.*)

Shrimati Sushama Sen: I have got two amendments, Nos. 226 and 228. I wish to move only the latter.

I beg to move:

In page 5, lines 23 to 25, *omit* "and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise."

Under clause 10, property given under any gift will be deemed to pass on donor's death to the extent that *bona fide* possession and enjoyment of it was not immediately assumed by the donee and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise. My amendment seeks to omit the portion "and thenceforward retained....." According to the Hindu Law, a gift of property is not invalid because the donor reserved the usufruct of the property for lifetime. The Transfer of Property Act abrogates the rule of Hindu Law that considers delivery of possession as essential to the validity of a gift. It is therefore not necessary to have delivery of possession to complete a gift. Whereas under the clause, immediate possession and exclusive enjoyment to the donee of the property given as a gift is required.

The provision is also contrary, I believe, to the Muslim law. Now I think it makes it very difficult if the donor is absolutely excluded from enjoying any benefits and privileges. Therefore, I think it is very necessary that we should omit these words—"and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise".

I do not want to take up much time of the House, but I think it is a very necessary amendment and I hope the House will accept it.

Shri Barman (North Bengal—Reserved—Sch. Castes): I simply submit for the consideration of the Minister that the word 'immediately' be inserted in line 30 after 'at least'.

Mr. Deputy-Speaker: I think he did not move it.

Shri Barman: I was just finding out the number—626.

I beg to move:

In page 5, line 30, *after* "two years" *insert* "immediately".

It may be that these two years may not be immediately before the date, but at any previous time. In that case the real intention of this clause will not be served. But if the word 'immediately' is put there, then the real purpose of this clause may be better served. It is for the Minister to consider it.

Mr. Deputy-Speaker: Amendment moved:

In page 5, line 30, *after* "two years" *insert* "immediately".

The Deputy Minister of Finance (Shri M. C. Shah): I regret that the Government cannot accept the amendment of Mrs. Sushama Sen. These words are absolutely essential to avoid certain gifts which may not be, really speaking, gifts, but the donor may just enter into a deed of gift and may keep possession to himself.

Shrimati Sushama Sen: Why don't you trust the people? It is a *bona fide* gift.

Shri M. C. Shah: We trust the people. We trust them to be very honest. But we want to avoid those gifts where possession is handed over to the donee and to be enjoyed entirely to the exclusion of the donee. 'Exclusion' means legal exclusion. If there are any fears as regards entire exclusion in cases like, a father going and staying with his widowed daughter in law for some time, those fears are misconceived. As a matter of fact, there are certain rulings and I do not think I should take the time of the House. There must be legal exclusion. He may not have any benefit whatever, direct, indirect, distant or remote, in the property already gifted away. Therefore, these words are absolutely necessary and I am sorry I cannot accept the amendment.

Shrimati Sushama Sen: Should you not put in some provision so that you are not legally absolutely thrown out?

Shri M. C. Shah: It is not necessary. If you consult your lawyer friends, they will tell you immediately that this is entirely necessary and your fears are absolutely misplaced.

Mr. Deputy-Speaker: The question is:

In page 5, lines 23 to 25, *omit*:

> "and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise".

The motion was negatived.

Mr. Deputy-Speaker: What about Mr. Barman's amendment? Shall I put it to the House?

Shri K. K. Basu: It is withdrawn.

Shri Barman: I beg leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

> "That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11.—(*Limited interests disposed of etc.*).

Shri N. C. Chatterjee: I beg to move:

In page 5, lines 41 and 42 *omit*:

> "and no disposition of any interest expectant upon or subject to that interest".

Shri M. C. Shah: I beg to move:

In page 5, line 43, *for* "section 6" *substitute* "section 5".

Shri N. C. Chatterjee: I beg to move:

(1) In page 5, lines 47 and 48, *omit*;

> "and no disposition of any interest expectant upon or subject to that interest".

(2) In page 6, lines 2 and 3, *for* "two years" *substitute* "one year".

Shri U. M. Trivedi: I beg to move:

In page 6,

(i) line 3, *for* "years" *substitute* "months"; and

(ii) line 4, *for* "not less than six months before the death" *substitute* "whenever so effected."

Shri N. C. Chatterjee: I beg to move:

In page 6, line 4, *for* "not less than six months" *substitute* "at any time."

Shri M. C. Shah: I beg to move:

(1) In page 6,

(i) *after* line 16, *insert*:

> "Provided that where *bona fide* possession and enjoyment of the property referred in clause (a) was not assumed immediately after the disposition or determination of the interest limited to cease on death, the disposition or determination shall be excepted by this sub-section, if, by means of the surrender of the reserved benefit or otherwise, the property is subsequently enjoyed for at least two years before the death, to the entire exclusion of the person who immediately before the disposition or determination had the interest and of any benefit to him by contract or otherwise."

(ii) line 17, *after* "Provided" *insert* "further".

(2) In page 6, lines 39 and 40, *for* "of the proviso to section 10" *substitute* "of the first proviso to sub-section (2)".

Mr. Deputy-Speaker: Amendments moved:

(1) In page 5, lines 41 and 42, *omit*;

> "and no disposition of any interest expectant upon or subject to that interest".

(2) In page 5, line 43, *for* "section 6" *substitute* "section 5".

(3) In page 5, lines 47 and 48, *omit*;

> "and no disposition of any interest expectant upon or subject to that interest".

(4) In page 6, lines 2 and 3, *for* "two years" *substitute* "one year".

(5) In page 6,

(i) line 3, *for* "years" *substitute* "months"; and

(ii) line 4, *for* "not less than six months before the death" *substitute* "whenever so effected".

(6) In page 6, line 4, *for* "not less than six months" *substitute* "at any time".

(7) In page 6.

(i) *after* line 16, *insert*:

> "Provided that where *bona fide* possession and enjoyment of the property referred in clause (a) was not assumed immediately after the disposition or determi-

> nation of the interest limited to cease on death, the disposition or determination shall be excepted by this sub-section, if, by means of the surrender of the reserved benefit or otherwise, the property is subsequently enjoyed for at least two years before the death, to the entire exclusion of the person who immediately before the disposition or determination had the interest and of any benefit to him by contract or otherwise."

(ii) line 17, *after* "Provided" *insert* "further".

(8) In page 6, lines 39 and 40, *for* "of the proviso to section 10" *substitute* "of the first proviso to sub-section (2)".

Shri M. C. Shah: Amendment No. 514 is to rectify a typing mistake—"*for* section 6, *substitute* section 5", and regarding amendment No. 515....

Mr. Deputy-Speaker: What is the object of the amendment. The hon. Minister will kindly say what it is. That is enough.

Shri M. C. Shah: .... we have made that position very clear. Before two years if the benefit was surrendered to the entire exclusion of the donor and if the property was enjoyed by the donee, then this may not apply.

Then we have said "(ii) in line 17, *after* 'provided' *insert* 'further' ", because that will be the second proviso.

Then again amendment No. 516 is also consequential—"*for* 'of the proviso to section 10' *substitute* 'of the first proviso to sub-section (2)' ".

Shri N. C. Chatterjee: This clause 11 means to bring within the charge interests limited to cease on death and which have been disposed of within 2 years of the death. Take for instance, the Hindu widow who has got a widow's estate in a house property. She surrendered the estate to the reversioners before death. In such a case property would not be said to pass to the reversioners on her death because it actually passed to them more than two years back. Therefore, section 5 will not apply nor section 7. But our object under sub-clause (1) was that property should be deemed to pass on death; and estate duty should be chargeable if the property had not been surrendered two years before death. You may remember that in the Select Committee the old clause has been altered to some extent having regard to certain English decisions. You may kindly look into the words that I want to omit. I hope the hon. Minister will have no objection. Just look at clause 11. 'Limited interests disposed of within a certain period before death' is the heading.

> "Subject to the provisions of this section, where an interest limited to cease on a death has been disposed of or has determined, whether by surrender, assurance, divesting, forfeiture or in any other manner......whether wholly or partly, and whether for value or not, after becoming an interest in possession, and the disposition or determination (or any of them if there are more than one) is not excepted by sub-section (2), then—
>
> (a) if, had there been no disposition or determination, as aforesaid of that interest and no disposition of any interest expectant upon or subject to that interest, the property in which the interest subsisted would have passed on the death under section 6, that property shall be deemed by virtue of this section to be included as to the whole thereof in the property passing on the death;"

Now, Sir, I find that in England the greatest difficulty has been caused by the decisions. Dymond has pointed out that the words 'and no disposition of any interest expectant upon or subject to that interest' are not clear. They will create complications. What I am pointing out is

[Shri N. C. Chatterjee]

even the limited interest if it has been surrendered two years before and if it is made over, that is, if the conditions of sub-section (2) are complete, then it is all right, and if there is no special disposition with regard to that particular property to make it charitable and public, the removal of these words would really help. I hope the Government would accept my amendment.

I am also asking that in clause (b) also the same words be omitted.

Mr. Deputy-Speaker: I will put first the Government amendments to vote. Amendment No. 514 is a formal amendment to substitute 5 for 6. Then there is amendment No. 515 and 516 a consequential amendment.

The question is:

In page 5, line 43, *for* "section 6" *substitute* "section 5".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 6,

(i) *after* line 16, *insert*:

> "Provided that where *bona fide* possession and enjoyment of the property referred in clause (a) was not assumed immediately after the disposition or determination of the interest limited to cease on death, the disposition or determination shall be excepted by this sub-section if, by means of the surrender of the reserved benefit or otherwise, the property is subsequently enjoyed for at least two years before the death, to the entire exclusion of the person who immediately before the disposition or determination had the interest and of any benefit to him by contract or otherwise." and

(ii) line 17, *after* "Provided" *insert* "further".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 6, lines 39 and 40, *for* "of the proviso to section 10" *substitute* "of the first proviso to sub-section (2)".

The motion was adopted.

Mr. Deputy-Speaker: Now, I will put the amendments of Mr. Chatterjee.

The question is:

In page 5, lines 41 and 42, *omit* "and no disposition of any interest expectant, upon or subject to that interest".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 5, lines 47 and 48, *omit* "and no disposition of any interest expectant upon or subject to that interest".

The motion was negatived.

Mr. Deputy-Speaker: Now, I will put the other amendments to vote.

The question is:

In page 6, lines 2 and 3, *for* "two years" *substitute* "one year".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 6,—(i) line 3, *for* "years" *substitute* "months"; and (ii) line 4, *for* "not less than six months before the death" *substitute* "whenever so effected".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 6, line 4, *for* "not less than six months" *substitute* "at any time".

The motion was negatived.

Mr. Deputy-Speaker: Now, the question is:

"That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clause 12.—(*Settlements with reservation*)

Shri M. C. Shah: I beg to move:

(i) In page 6, line 49, *before* "property" *insert* "(1)"; and

(ii) In page 7, *for* lines 6 to 9, *substitute*:

"Provided that the property shall not be deemed to pass on the settler's death by reason only that any such interest or right was so reserved if by means of the surrender of such interest or right the property is subsequently enjoyed to the entire exclusion of the settler and of any benefit to him by contract or otherwise, for at least two years before his death.

Explanation.—A settler reserving an interest in the settled property for the maintenance of himself and any of his relatives (as defined in section 26) shall be deemed to reserve an interest for himself within the meaning of this section.

(2) Notwithstanding anything contained in sub-section (1), where property is settled by a person on one or more other persons for their respective lives and after their death, on the settler for life and thereafter on other persons and the settler dies before his interest in the property becomes an interest in possession, the property shall not be deemed to pass on settler's death within the meaning of this section."

Shri N. C. Chatterjee: Yes. I beg to move:

(1) In page 7, *after* line 5, *insert*:

"Provided that where in a settlement an interest is conferred upon the settler or disposer which is to take effect only in case a specified uncertain event shall happen an interest shall not be deemed to have been reserved to the settler within the meaning of this section and provided further that where a settlement is made irrevocable for a period exceeding six years but is revocable at the expiration of the said period, the settler shall not be deemed to have reserved to himself the right to restore to himself or to reclaim the absolute interest in such property within the meaning of this section."

(2) In page 7, *omit* lines 6 to 9.

Mr. Deputy-Speaker: Amendments moved:

(1) (i) In page 6, line 49, *before* "Property" *insert* "(1)"; and

(ii) In page 7, *for* lines 6 to 9, *substitute*:

"Provided that the property shall not be deemed to pass on the settler's death by reason only that any such interest or right was so reserved if by means of the surrender of such interest or right the property is subsequently enjoyed to the entire exclusion of the settler and of any benefit to him by contract or otherwise. for at least two years before his death.

Explanation.—A settler reserving an interest in the settled property for the maintenance of himself and any of his relatives (as defined in section 26) shall be deemed to reserve an interest for himself within the meaning of this section.

(2) Notwithstanding anything contained in sub-section (1), where property is settled by a person on one or more other persons for their respective lives and after their death, on the settler for life and thereafter on other persons and the settler dies before his interest in the property becomes an interest in possession, the property shall not be deemand to pass on the settler's death within the meaning of this section."

(2) In page 7, *after* line 5, *insert*:

"Provided that where in a settlement an interest is conferred

[Mr. Deputy-Speaker]

upon the settler or disposer which is to take effect only in case a specified uncertain event shall happen an interest shall not be deemed to have been reserved to the settler within the meaning of this section and provided further that where a settlement is made irrevocable for a period exceeding six years but is revocable at the expiration of the said period, the settler shall not be deemed to have reserved to himself the right to restore to himself or to reclaim the absolute interest in such property within the meaning of this section."

(3) In page 7, *omit* lines 6 to 9.

Shri M. C. Shah: We have made the position clear:

> "Provided that the property shall not be deemed to pass on the settler's death by reason only that any such interest or right was so reserved if by means of the surrender of such interest or right the property is subsequently enjoyed to the exclusion of the settler and of any benefit to him by contract or otherwise......"

Mr. Deputy-Speaker: As in the previous case something exclusively enjoyed.

Shri M. C. Shah: Yes. The wording of clause 12 by the Select Committee was not very clear. We have made the intention clear.

Shri N. C. Chatterjee: Sir, I thought that the Minister was going to accept the suggestion I made in case of a revocable settlement where you have got a peculiar mode of settlement. A life interest is given by A to B, and in the case of B pre-deceasing A a second life interest is given to the settler 'A' with remainder to C, a question will arise whether under the clause an interest is reserved to the settler. We want to put in the following proviso that a contingent interest reserved to the settler which may come into operation only in case a specified uncertain event shall happen is not an interest reserved to the settler within the meaning of the section:—

> "Provided that where in a settlement an interest is conferred upon the settler or disposer which is to take effect only in case a specified uncertain event shall happen an interest shall not be deemed to have been reserved to the settler within the meaning of this section and provided further that where a settlement is made irrevocable for a period exceeding six years but is revocable at the expiration of the said period, the settler shall not be deemed to have reserved to himself the right to restore to himself or to reclaim the absolute interest in such property..............."

That is in conformity with the Income-tax Act. You know that in such cases the settlement is held to be good. What I am pointing out is that this kind of proviso should be accepted so that the position may be clarified. I wish Mr. Shah was also taking a line in conformity with that. He has not moved it. It should be made clear. I think there should be no opposition to this. It is a more or less drafting amendment to make the position clear.

Shri C. C. Shah (Gohilwad-Sorath): Sir, so far as the first part of Mr. Chatterjee's amendment 312 is concerned, that is covered by sub-section (2) now moved by the Government in amendment 517. It is made clear that if the life interest reserved for the settler does not fall into possession before the death of the settler, then it will not be deemed to pass the property. So far as the second part of Mr. Chatterjee's amendment is concerned, it is on the same lines as Explanation 3 in my amendment 410. I have not moved that Explanation for this reason. Under section 16, sub-section (1) (c) of the Income-tax Act, if the settlement is irrevocable for a period of six years it is considered irrevocable. No doubt, relying on this provision, some people have made settlements today which are irrevocable for six years within the meaning of this clause. As they are revocable after a period of six years, they are irrevocable so far as the settler is concerned for the period of six years and yet they are revocable for Clause 12 under consideration. It would have been reasonable in my opinion to accept the amendment on the lines of Explanation 3 which I have tabled, namely, that if the settler dies within the period of six years, since he had no power to revoke the settlement it should be considered irrevocable. As a result of the clause as it stands and the explanation worded by the Government it would be considered a revocable settlement. But, since the Government, it appears, is not prepared to accept that kind of policy, I have not moved my amendment.

Shri M. C. Shah: This point was raised when we discussed it last. Under the Indian Income-tax Act—Section 16(1)(c), for income-tax exemption purposes, irrevocable trusts are made for six years, in which case they get the exemption. But then the matter was argued and we are informed that those trusts can be made irrevocable for all time to come. Therefore, it was not considered necessary to have that mentioned. So, we have taken up this line.

Mr. Deputy-Speaker: I shall put Amendment No. 517 by Shri C. D. Deshmukh to the vote of the House first.

The question is:

(i) In page 6, line 49, before "Property" insert "(1)"; and

(ii) In page 7, for lines 6 to 9, substitute:

> "Provided that the property shall not be deemed to pass on the settler's death by reason only that any such interest or right was so reserved if by means of the surrender of such interest or right the property is subsequently enjoyed to the entire exclusion of the settler and of any benefit to him by contract or otherwise, for at least two years before his death.
>
> *Explanation.*—A settler reserving an interest in the settled property for the maintenance of himself and any of his relatives (as defined in section 26) shall be deemed to reserve an interest for himself within the meaning of this section.
>
> (2) Notwithstanding anything contained in sub-section (1), where property is settled by a person on one or more other persons for their respective lives and after their death, on the settler for life and thereafter on other persons and the settler dies before his interest in the property becomes an interest in possession, the property shall not be deemed to pass on the settler's death within the meaning of this section."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 7, *after* line 5, *insert*:

> "Provided that where in a settlement an interest is conferred upon the settler or disposer which is to take effect only in case a specified uncertain event shall happen an interest shall not be deemed to have been reserved to the settler within the meaning of this section and provided further that where a settlement is made irrevocable for a period exceeding six years but is revocable at the expiration of the said period, the settler shall not be deemed to have reserved to himself the right to restore to himself or to reclaim the absolute interest in such property within the meaning of this section."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 7, *omit* lines 6 to 9.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, *as amended, was added to the Bill.*

Clauses 13 *and* 14 *were added to the Bill.*

Clause 15.—(*Annuity or other interest etc.*)

Amendment made:

In page 7, lines 52 and 53, *omit*

"including moneys payable under a policy of life assurance".

—[*Shri M. C. Shah*]

Mr. Deputy-Speaker: The question is:

"That clause 15, as amended, stand part of the Bill."

The motion was adopted.

Clause 15, *as amended, was added to the Bill.*

Clause 16 *was added to the Bill.*

Clause 17.— (*Property transferred etc.*)

Shri Tulsidas (Mehsana West): I beg to move:

(1) In page 9, line 14, *after* "the company" *insert* "as a result of such transfer", and

(2) In page 9, *after* line 17, *insert*:

"*Explanation* 1.—For this section 'transfer to a controlled company' means transfer to a controlled company made without consideration.

Explanation 2.—For this section merely holding of shares and deposits in a controlled company will not be treated as a transfer."

Shri M. C. Shah: I beg to move:

In pages 11 and 12, *omit* lines 34 to 50 and lines 1 to 5 respectively.

Mr. Deputy-Speaker: Why should they be omitted? The House is entitled to know why they are omitted.

Shri M. C. Shah: Because we are having them in 19A. 19A is a separate clause.

Shri Tulsidas: Sir, I am speaking on my amendments to clause 17, which I have moved. Clause 17 which is meant for the controlled companies is a very complicated one. The definition of controlled company has been accepted now by the Select Committee on the lines of the U.K. Act. It is not defined as to what is meant by "transfer to a controlled company." It is presumed that this means transfer without consideration. It should also be clarified that holding of shares or deposits in a controlled company will not be treated as 'transfer'.

Further, it is feared that the clause as at present stands, might involve double taxation; because if the deceased held a share in a controlled company, the principal value of such a share would be included in the property passing on his death and there would also be included a part of the assets of the company. An instance may be cited. Suppose four brothers owned all the shares in a private company. For various reasons, they transferred those shares with or without other property to a holding company which is a controlled company. Then on the death of one of the brothers, it is feared that the shares held by him in the holding company as well as a share of the assets of the holding company would be liable to duty. Clause 33(3) does not provide relief against such double taxation because it is not the same property which is being aggregated, the shares in the controlled company and the share of the assets in the controlled company being not the same 'property'. It is to be noted with gratification that the Government has moved an amendment—No. 522—to clause 19A(f) which provides relief firstly for double taxation and secondly where the value of the benefit exceeds the value of the property transferred to the company.

The difficulty in this section is that in England, the powers are all provided in the Statute itself. It is done in the U.K. Act 1940, Section 51(1) which provides for relief where the value of the benefit exceeds the value of the property transferred to the company, and in Section 51(2) which provides for relief for double taxation. But here, these are included in the rule-making powers of the Government. A controlled company or a private company must know the responsibility, must know what is in the Act. it must be provided in the Act itself. Now, what is in the clause? Here, the powers are taken under the rule-making powers of the Government. Therefore, one does not know what the responsibility or liability is. Besides, with the rule-making powers vested in the Government, naturally the Government and the Central Board of Revenue would amend these rules, and then one does not know what the liabilities would be. In the U.K. Act, all these matters which are now to be provided by the rules framed by the Central Board of Revenue and the Government are provided in the Act itself. Therefore, one definitely knows what the liabilities are. I know the difficulties of the Government. The Act is a big one, having a large number of clauses. In case these matters are to be provided for in the Act itself, it may have to be referred again to the Select Committee. I understand that the rules which have been prepared are on the lines of the U.K. Act. I would request the Government that, in order that the private companies should know the responsibilities, and the directors or the shareholders should know the liabilities, in the future amending Bill this must be provided in the statute and not kept under the rule-making powers of the Government. These are very complicated things, and therefore, should be provided in the Act itself.

Another matter which should be made specific is to limit the benefits accruing to the deceased within three years prior to his death with the transfer of property. I am now on my amendment. It may be that for reasons unconnected with the transfer, and perhaps even fortuitously, the deceased may receive a benefit from the company within three years prior to his death. For instance, a person may transfer lands of a nominal value to a sugar company which is a controlled company. The company obtains capital from outside and puts up a factory. Years thereafter, the person may receive benefits from the company as sugarcane contractor or as a manager. If the person should die within three years of receiving such benefits, then a share of the assets of the company might be deemed to have passed on his death. It is certainly unfair to penalise the receipt of any such benefits unless the relationship between the benefit accruing and the transfer is established. In the United Kingdom Finance Act of 1940, Sections 46 to 51 define benefits, provide against double taxation and to some extent also limit the liability in respect of benefits not connected with the transfer. Further no power has been given to the Central Board of Revenue for making rules to give relief for reasonable remuneration for services rendered by the deceased as holder of office in a company. The United Kingdom Act in Section 51(4) provides such relief. It is necessary that the Indian Act also should provide such relief. Although clause 17 covers three pages of print, it only touches the principle of the subject, because clause 19 gives the Board power to make rules regarding a number of matters for working out the provisions of clause 17.

Shri U. M. Trivedi: Can he read out a speech?

Shri Tulsidas: This is a highly technical matter and, therefore, I had to come prepared.

Mr. Deputy-Speaker: Such interruptions only add spice to the debate.

Shri Tulsidas: The provisions of clauses 17 to 19 closely follow the corresponding sections of the United Kingdom Finance Act 1940, section 46 onwards. But there is a very vital difference which is that in the United Kingdom Act, section 47 prescribes what shall be treated as benefits. Section 49 provides the methods of determining the net income of the company; section 50 provides the method of determining the value of assets of the company; section 51 provides the limitation on charge and prevention of duplication of charge of duty. The Seventh Schedule of the same Act provides supplementary provision for amounts to be taken into account in respect of benefits and the time when benefits are treated as accruing, adjustments as to distributed assets and additions to assets, prevention of duplication of charge in respect of benefits and charge in respect of shares, and for other matters.

As clause 18 of the Bill corresponds with Section 53 of the U.K. Act and clause 19 with Section 54, we should have expected to find all the above provisions which appear in the U.K. Act in the remaining clause of the Bill, *viz.*, clause 17, but on looking at clause 17, we find that it lays down a general rule for levying the charge, thereby corresponding to Section 46 of the U.K. Act and a few definitions and leaves all the other matters to be prescribed by rules to be made by the Board. These rules are to have a statutory effect and will be placed before the House of the People, but will not be liable to be discussed or amended by the Members of Parliament. Therefore, it is very essential that these should be in the Act itself, as it is provided in the U.K. Act.

I just wish to point out what are the difficulties that will arise. After all they are only rules and can at any time be changed or amended. The matters to be prescribed by the rules [clause 17(5)] are matters essentially of legislation and should not be left to the rule making power of the Board. As I had pointed out earlier, they form part of the U.K. Act. These matters are of such importance and in fact go to the very root and substance of clause 17 and should not be decided under the rule-making power. On the other hand, it must be considered whether the provisions to be introduced in the first Estate Duty Bill of this country requires to be as elaborate as the English legislation. Here, as I have pointed out, we must be quite elaborate—we must know where we are. Here, under the rule-making power of Government we do not know when the rules will be amended and how we will be affected. In the case of St. Aubyn and ors. And Attorney-General decided by the House of Lords in England and reported in 1952, Appeal Cases at page 15—Lord Radcliffe, one of the Law Lords, stated at page 45 of the report—

> "The Seventeen sections which constitute Part IV of the Finance Act, 1940 (which included sections 46 onwards), are expressed with what proves on investigation to be a vagueness so diffuse and so ambiguous that they may well produce in practice the second alternative while adopting in form the requirements of the first."

The two alternatives which Law Lord referred to are set out by him at pages 44 and 45 of the same report:

> "The tax-payer is entitled to be told with some reasonable certainty in what circumstances and under what conditions liability to tax is incurred or else to be told explicitly that the circumstances and conditions of liability are just those which the Commissioners of Inland Revenue in their administrative discretion may consider appropriate."

It may be taken for granted that the Law Lord in the House of Lords must have had considerable experience in considering the Finance Acts and if he found difficulty in construing Part IV of the U.K. Finance Act, 1940. it does not require such imagination to see that the tax-payer in India is going to have great difficulty in understanding the provisions of clause 17 and the provisions to be made supplementary to it.

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Beattie in his book "The Elements of Estate Duty" 1952 edition says at page 96 in reference to Section 46 of the Finance Act, 1940

> "The section is drawn in such wide terms as to apply to cases which were never within the mischief which the statute was intended to cure. The Commissioner of Inland Revenue have intimated that they intend to apply the statutory provisions in a reasonable manner. and in fact it is relatively rare to find Section 46 invoked at all. But it can only be regarded as highly unsatisfactory that a statutory provision should be so drawn as to give the Commissioners excessive powers of taxation, leaving the subject to rely on a benevolent interpretation by State officials."

The problem has been so well treated in the above quotation by Mr. Beattie that I need not enlarge upon it. The result to be inferred. therefore, is.

(i) that the ambit of clause 17 should be limited. The clause should be in no wider terms than is sufficient to cover the mischief which it intends to cure:

(ii) the Act itself must provide for the various matters set out above:

(iii) the Act must also provide the safeguards contained in the United Kingdom Act, namely that relief will be given where the value of the benefit exceeds the value of the property [U.K. Act Section 51(1)] and reasonable remuneration for services rendered by him as the holder of an office under the company will not be treated as a benefit accruing to the deceased from the company [U.K. Section 51(4)].

These and other safeguards in the U.K. Act should be included in the Indian Act.

At the same time, the Act must be worded in language which can be understood by the layman and in language which is clear and unambiguous. Power should be given to the Central Board of Revenue to give relief in fit cases. There must be a direct relation between the benefit accruing to the deceased and the transfer of the property. There must be a relation between the value of the property transferred to the total value of the assets of the company. There must be a provision for limiting the value on which duty is to be charged by reason of benefits accruing by virtue of the transfer to the value of the property transferred. The deceased must have had a controlling or at any rate a large interest in the management of the company. Provision should be made to avoid double taxation, *i.e.*, of taxation both of the benefit as well as of the charges.

Provisions for the above have been made in the U.K. Finance Act, 1940. The other matters to be provided for by rules should be provided for in the statute.

I would now come to the very wide definition given to 'relatives'.

With regard to relatives the definition given here is this. "Relative" means a husband, wife, ancestor, lineal descendant, brother or sister. On

[Shri Tulsidas]

page 10 item (iii) of sub-clause (4) says:

> "In determining whether a company is or is not under the control of not more than five persons, persons who are relatives of one another," (the Explanation is given as to what is a 'relative') persons who are nominees of any other persons together with that other person, persons in partnership, and persons interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, shall respectively be treated as a single person."

Now, take this expression 'persons in partnership'. A person may be a partner in another concern. It does not mean therefore that it is one person. A person includes all these people. He may be a partner entirely separate, he may be a partner in another company. If he becomes a shareholder of this company, although he may be entirely separate and has no connection with the person who started this company, he will be considered as one person. This is rather carrying things too far. When a controlled company is governed by five persons of one family, if there are four brothers, and if you consider them as one person that is understandable. But according to this provision persons in partnership must also be considered as one person. That, I think, is carrying things too far.

These are the points I have to make. This is a very important clause and it has to be framed in such a manner that persons interested in controlled companies must at least know where they stand. I know the difficulties of the Government, this being the first time that this measure is introduced in our country. But in England it has been in operation for all these years Of course it is not possible for them to put all the provisions which are there in the British Act. But as I requested before, and once again I make the request to the hon. the Finance Minister, after having a certain amount of experience an amending Bill must be brought in as soon as possible, so that all these provisions which are in the English statute may be brought into our own statute. Until that is done it is very difficult for people to arrange matters in a proper manner. For, after all, the promoters of companies and other people connected with them should know what their responsibilities and liabilities are. Every time it has been said that the private sector is not playing its part, and so on and so forth. But here we are trying to make a law in such a manner that if any one wants to start a new company he will have to think not only of the Companies Act and the Indian Income tax Act but now he will have to consider how it will be affected under the Estate Duty Act. And if the Act is so wide and ambiguous, how is any person going to start any industry or think of doing so, unless he knows where he stands?

As I have said, this a matter which is very technical, very complicated. I know it is very difficult to make people understand about this. But it is no use merely saying "After all, what is it? Companies can afford to do this, and do that". Here this is a very important matter. It is not a matter which can be treated lightly. After all, private sector has been given a certain amount of responsibility and we must see that it functions properly. And in order that they may function properly they must know where they are.

Sir, I have dealt with the clause quite briefly. It is a difficult clause One can say any amount of things with respect to it. But I want to limit the discussion. But I do want to impress upon Government that the matter has to be clarified in a proper manner and, in the initial stages at least, the Government ought to consider that wherever difficulties arise they should see to it with sympathy. Because this is a new Act. We do not understand these things. Therefore if there is anything, as far as it is not done with a *mala fide* intention, and if anything is *bona fide*, the matter should be looked at from that angle and not merely from the technical point of view. Even within the purview of the Act if anything has been done by mistake it should not be looked upon from that point of view but with sympathy. I hope Government will consider this.

Shri M. C. Shah: The point raised by the hon. Member was very carefully considered by Government. There are so many provisions on the subject. There are two courses: whether these provisions should be in the statute itself or, in order to have flexibility, it should be under the Rules. We have seen from the U.K. Finance Acts that there have been so many changes in the provisions. If there is flexibility we can come to know whether there are new methods of evasion. And if we find that there are new methods of evasion it will be very easy to have rules framed and to stop that evasion. Therefore we have preferred the course of rule framing powers under the section. As a matter of fact we have already provided in clause 19A, which I propose to move later on, that all these Rules shall be placed on the table of the House fifteen days before their publication. These Rules will be published, and if there are any difficulties they can approach us and before finalising them those matters can be looked into. Therefore it is not at all necessary to have these Rules in the statute itself for the time being. Because we want to see how these rules framed are working, whether there are new methods of evasion adopted by these controlled companies to evade Estate Duty. So it is after a good deal of consideration that we have preferred this course.

With regard to his amendments I think Mr. Tulsidas has spoken all along about the rule-making powers and has not referred to his amendments.

Mr. Deputy-Speaker: He has.

Shri Tulsidas: I did refer, twice or thrice.

Shri M. C. Shah: In his amendment No. 432 he wants that after the word "company" the words "as a result of such transfer" should be inserted. There also there are two conditions which attract the provisions of clause 17. One is that the transfer of any property should have been made to the company. The second is that any benefit should have accrued within three years of his death. By the amendment he wants to have some connection directly or indirectly on account of the transfer. We feel it is not necessary that this benefit should have arisen out of the transfer. Once a transfer is made the benefit becomes subject to duty.

Shri Tulsidas: May I rise on a point of information? When he says 'directly or indirectly' may I know how my amendment is described to say 'directly or indirectly'? I have not said that.

Shri M. C. Shah: It is not necessary. What I say is......

Shri Tulsidas: Then why do you say so?

Shri M. C. Shah: We are not concerned with the question whether it is directly or indirectly. When there is a transfer then the benefits derived become chargeable to duty. That is the main thing. If we just accept this, there will be complications.

Shri Tulsidas: How is there complication, I would like to know.

Mr. Deputy-Speaker: How can he go on satisfying the hon. Member?

Shri M. C. Shah: We cannot accept that we must always correlate the benefit to the transfer. This will limit the scope of the law and also, it will be administratively impossible to link the two exactly because if we try to link both, there will be ad-

[Shri M. C. Shah]

ministrative difficulties and practically it will become impossible to administer this section in the best way in which it should be. We cannot accept that amendment.

The next amendment is No. 433. What is to be considered as a transfer will be defined in the rules to be framed under the Act. The term suggested by Mr. Tulsidas is very comprehensive. A person will be deemed to have made a transfer of property to a company if it came to be comprised in the resources of the company by the effect of a disposition made by him or with his consent or by the effect of any associated operations of which such a disposition formed one. This will be seen if he refers to the U.K. Finance Act of 1940, section 58(2). The normal forms of transfers are sale of business or property to a company in consideration of the issue of shares, or cash or debentures. If the amendment is accepted, the whole purpose of this clause will be defeated. We cannot accept the amendment.

Shri U. M. Trivedi: Can a Minister read his speech? (*Interruption*)

Mr. Deputy-Speaker: The hon. Minister is opposing both the amendments of Mr. Tulsidas Kilachand. Now, I will put the amendments to the vote of the House. Enough has been said on both sides.

The question is:

In pages 11 and 12, *omit* lines 34 to 50 and lines 1 to 5 respectively.

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 9, line 14, *after* "the company" *insert* "as a result of such transfer".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 9, *after* line 17, *insert*—

"*Explanation* 1.—For this section 'transfer to a controlled company' means transfer to a controlled company made without consideration.

Explanation 2.—For this section merely holding of shares and deposits in a controlled company will not be treated as a transfer."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 17, as amended, stand part of the Bill."

The motion was adopted.

Clause 17, *as amended, was added to the Bill.*

Clauses 18 *and* 19 *were added to the Bill.*

Mr. Deputy-Speaker: The House will now take up the one-hour discussion on the automobile industry.

Shri M. C. Shah *rose*—

Mr. Deputy-Speaker: The hon. Minister will continue at 4 o'clock.

Shri M. C. Shah: I thought the discussion was at 12-45.

Mr. Deputy-Speaker: I have allowed three minutes more to the hon. Minister.

FUTURE OF AUTOMOBILE INDUSTRY

[SHRI PATASKAR *in the Chair*]

Dr. Krishnaswami (Kancheepuram): Sir, before being critical of certain aspects of governmental policy, let me express my deep sense of thankfulness to the hon. Minister for Commerce and Industry for having furnished us with an opportunity to raise the issue of the future of the automobile industry on the floor of this House.

The automobile industry, as hon. Members are aware, has received official encouragement, the blessings of the Tariff Commission and has had its praises sung day in and day out by influential publicists in our country. Today, what is called for is a searching enquiry, an enquiry into the policy that has been followed since 1948. We have to ask ourselves the question whether the community should incur great cost for having the luxury of a fully manufacturing plant which is expected in the remote future to lead to the growth of ancillary industries and the production of vehicles at an economic price.

In 1948, the then Minister for Commerce and Industry, Dr. Syama Prasad Mookerjee, pointed out that the automobile industry could be started as a manufacturing plant, and that within three or four years, cars would be available to the consumer at the prices of Rupees 6,000 or 7,000 per vehicle. All these expectations have been belied. We are far far away from that happy day. It is extremely difficult for us to visualise the possibility of the automobile industry ever producing cars at this price. Hon. Members know that the manufacture of motor vehicles is essentially a mass technique, which can be thoroughly efficient and economical only when they are produced in large numbers and only when a large market is available, for say 20,000 or 25,000. The demand for motor vehicles, let me add, is notoriously unstable and is particularly responsive to changes in the level of income and conditions of prosperity.

How does the Tariff Commission deal with this problem? The Tariff Commission went into the question of what the economical output should be and after having considered its findings, I must confess that these findings are most haphazard and illogical. The Tariff Commission collected evidence from the manufacturers. Some said that about 20,000 or 25,000 would be the minimum number that could be produced economically. Some said that about 10,000 would be the minimum number for producing cars at cheap prices. One producer said that 5,000 would be sufficient. Another producer said that 2,000 would be enough. After collecting these estimates the Tariff Commission remarks facetiously:

> "Two facts emerge from these and similar views expressed by others. One is that a large volume of about 30,000 is required for mass production. The other is that with a small volume it is possible to manufacture motor vehicles in India at a reasonable price provided the resources of ancillary industries are properly utilised and the management of the automobile factory is economical and efficient."

Now this type of loose thinking is most heartrending. One would have expected the Tariff Commission which went into the question of costs at length, which had before it cost accountants and other experts, to find out what exactly is the minimum quantity that could be produced at an economic price, to find out what the price would be, and then to lay down the lines of policy to be followed by the Government. We have gone the wrong way about in dealing with the problems of the automobile industry. We ought to realise that the anticipations of the authors of 1948 resolution have not materialised. We expected when those resolutions were passed that within about three or four years sufficient number of automobiles would be manufactured and at economical prices, and that consumers would buy them because of their cheapness. Even the Tariff Commission has been forced to acknowledge that the present level of import duties has not stimulated the demand for automobiles in our country, and a lowering of tariffs has been recommended to the Government of India. I am glad to find that the Government of India has accepted this recommendation with alacrity. This step, welcome though it is, is not sufficient.

What is the purpose of having an automobile manufacturing industry?

[Dr. Krishnaswami]

Why should the automobile industry occupy a key place in our economy? I can only visualise two clear reasons, and I am placing them before the House for what they are worth. The two important considerations for advocating the manufacture of automobiles in our country are the needs of defence and mechanised agriculture. So far as mechanised agriculture is concerned, it is very unlikely that in the near future we would require tractors on a sufficiently large scale for the purpose of developing agriculture. The needs of defence are however important, and the Tariff Commission is correct in inviting our attention to the strategic position of this industry in the economy of our country. I am all in favour of considering the defence needs of our country as of prime importance. But are the steps that we have taken so far fair to the consumer and the country? If considerations of defence are important, if it is suggested by the policy makers that in the event of war breaking out we should not be caught napping, a different policy should be pursued a policy which would benefit consumers and the country. Let us separate the demands of defence from those of the consumers or the civilian policy. The former may be termed as a strategic demand which would have to be satisfied at any cost, the latter as consumer's demand which will have to be built up by careful nurture. What is the position today? Our incomes are low, and as has been pointed out even by the Tariff Commission, it would not be possible for more than 16,000 or 18,000 automobiles to be absorbed by consumers and the Defence Departments. It follows, therefore, that even if a single factory is entrusted with the responsibility of producing automobiles, it still would function at less than the economic optimum. If it functions at less than the economic optimum, the prices at which automobiles are produced would be highly prohibitive. We are faced with a dilemma: cars are not purchased because they are priced too high; cars are not produced cheap because of insufficiency of demand.

So far as defence is concerned, I am making the suggestion, and I hope it will be considered by hon. Members on the other side of the House, if our strategic needs are important, why should not this aspect of demand be nationalised? Why should not, for instance, trucks and other heavy military vehicles be produced by the Defence Department? We are operating the Chittaranjan Locomotive Works. Locomotives are produced, and surely the production of trucks for defence purposes would not be more difficult than that of producing locomotives. The moment we begin thinking on these lines, we will realise that there are great advantages which flow from separating the demand into two parts, strategic demand and consumers' demand. The strategic demand will be one which will have to be satisfied at any cost, whereas, consumers' demand must be one which will have to take account of the market and economic factors.

Incidentally, it may be pointed out that the expense incurred in opening a manufacturing unit for producing trucks for meeting the strategic demand of our country would benefit the automobile industry catering to the demands of the civilian population. The experience gained in the building up of engines and component parts can be made freely available to other assemblers and producers. The Tariff Commission has in a passage of cryptic merit, indicated that the automobile manufacturers do not cooperate with one another, that they do not share the results of engineering research, and that each attempts to conserve to himself the benefits accruing from scientific research. There is a saying that dog does not eat dog, but in the case of automobile manufacturers one has to confess regretfully that dog eats dog. The Tariff Commission has bewailed the reluctance of automobile manufacturers to purchase the products of ancillary industries. In fact, on several occasions, even where the quality of the article has come up to specification, they have refused to purchase these products of ancillary industries because of certain alien considerations.

The ancillary industries have been considerably handicapped due to lack of goodwill displayed by automobile manufacturers.

Let me, however, examine the demand for automobiles in our country at some length.

Mr. Chairman: May I suggest to the hon. Member that this is a one-hour discussion. Already he has taken ten minutes. It would be better if he finishes within 15 minutes. There are a number of other hon. Members who want to speak. And I am going to ask the hon. Minister to reply. I must give him at least 20 minutes

Dr. Krishnaswami: I am very much obliged to you, Mr. Chairman. I shall attempt to shorten my speech. But the difficulty that I am experiencing is that there are powerful vested interests which are entrenched in the automobile industry, and one has to sufficiently get his teeth into the problem before he is able to elaborate it at some length. I hope you will sympathise with me and be a bit lenient in stretching the time in my favour.

Mr. Chairman: The only result will be the others may not get a chance.

Dr. Krishnaswami: The total demand in our country is not large enough to allow even one unit to be run economically. The Tariff Commission has estimated that out of the output of 84,000 vehicles, we are able to sell on the market about 16,000 to 19,000 vehicles. I suggest that the cost of producing even in one unit would be most prohibitive. So, from the point of view of the consumer, what we ought to concentrate on, I suggest—once our defence needs are met—is to have cars sold on the market at as cheap a rate as possible. Now, this can be done if we revise our policy. We have to make up our minds that the automobile industry cannot be a manufacturing industry at once. The growth of ancillary industries, should be encouraged and as a result of such growth an automobile industry can come into being. If we start the other way about, it would be like putting the cart before the horse, the Tariff Commission curiously enough seems to think that ancillary industries will develop as the result of the growth of the automobile industry. How can ancillary industries develop when the automobile industry itself has a limited market, and when it finds that it cannot sell cars at sufficiently remunerative prices. The community has to incur a high cost in order to sustain our manufacturers. Today, for instance, most cars are out of the reach of a middle class family, and it must be understood that when we are talking of opening up of the country and of increasing the transport facilities of our country, there have been considerable restrictions on the purchase of vehicles due to the capital costs that will have to be incurred.

Shri R. K. Chaudhury (Gauhati): Opening of roads.

Dr. Krishnaswami: If roads are opened, and buses are sold at prohibitive prices, and lorries are sold at prohibitive prices, then, undoubtedly, there would be a sharp restriction in the demand for them.

Here let me point out that apart from capital cost, there is also the question of running costs being high. Due to taxation policies of a conflicting and contradictory nature, being pursued by State Governments, great deal of difficulty has been experienced by people running buses and lorries. Ancillary industries have, to a large extent, been curtailed on account of the chaotic policies followed by different States and different Governments. I suggest to the Government of India that they should concern

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themselves not only with the problem of tackling the capital cost of producing a car, but also with the problem of running costs. If, for instance, the running costs could be halved, there would be a great expansion of transport and this would also inevitably increase the employment in our country.

Prof. D. C. Sharma (Hoshiarpur): How can that be done?

Dr. Krishnaswami: This can be done by having the taxation on vehicles reduced and compensating the States, as the case may be. But this is a matter of detail into which I cannot go now, because I do not have sufficient time at my disposal. But I should like to point out that so far as some of these problems are concerned, they are closely linked up with the question of employment. The automobile manufacturing industry today does not afford much employment. The maximum number that is employed in the leading factory of Hindustan Motors Limited, is about 1733. Compared with the employment in other countries, where the automobile industry has been developed, it is pitiably small. The reason is that unless we have other ancillary industries, it would be impossible for us to have a manufacturing plant employing a large body of workers. What is the policy that should be followed? I suggest to the Government that we should have cars imported in completely knocked down condition; only revenue duties should be levied, so that demand might be stimulated. Today the automobile industry is in an anaemic condition. There is not sufficient demand for vehicles, and sufficient vehicles are not produced at economic prices, to stimulate demand. I ask the Government to consider these matters, and also the Tariff Commission's recommendations which, on the subjects of an automobile industry are pitifully inadequate and vain, and have not taken account of the essential factors that influence the development of an industry.

Mr. Chairman: We started the discussion at 12-20 P.M., and one hour has to be devoted for this discussion. I propose to give at least 20 minutes to the hon. Minister. We shall sit up to 1-20 P.M. If the discussion is to be useful, the hon. Minister must be in a position to give us some information and reply to the points raised. I think in a matter like this, if hon. Members instead of going into details, put forward their suggestions, the hour could be usefully utilised.

Shri H. N. Mukerjee (Calcutta North-East): Mr. Chairman, Sir, for the five years ending with 1951-52, we spent foreign exchange to the tune of Rs. 55 crores on motor vehicles, and Rs. 37 crores on motor parts. This indicates, apart from the fact that Rs. 88 crores are invested in this industry, the importance of this industry and the urgency of Government looking after it. Actually we find that in 1948 when the policy statement was made by Government in regard to this industry, hopes were held out that we could produce at an economic cost of about Rs. 8000 or Rs. 9000, a sufficient number of motor vehicles needed by our country in a comparatively short while, and Government had said that they were going to regulate and control the production. As far as I can see, the regulation and control business has been done in such a fashion that today the industry is still in a very sorry pass, and we ought to try and find out the reasons for this calamity.

One of the reasons, I should think, is that we have allowed certain monopolist interests who are very dangerously linked up with foreign capitalist interests, to have control of the automobile industry. In the United States of America, there are three companies, the General Motors, Chryslers and Fords, who control nearly the entire production of passenger cars. We have got five leading producers who are connected with foreign combines, such as the Hindusthan Motors with the Nuffield Group and Studebaker Corporation, the

Premier Automobiles with Charysler Corporation and other Combines, the Automobile Products with Roots Group, the Ashok Motors, with Austin and Leyland of U. K., and the General Motors which is of course a subsidiary of General Motors of U. S. A. This being the state of things, it is very important that Government should come forward soon to really control and regulate the production of automobiles in our country. As far as that goes, we find that though the capacity of production has been 84,014 units, in 1951, we produced 22,393, and in 1952, 15,723, the average being for these two years 19,788. This is extremely unsatisfactory, and something has got to be done about it.

When we think of what requires to be done about it, we find that there is a very serious disequilibrium. Government have not yet found out the real relationship which should be made to subsist between the major industries, as far as automobiles are concerned, and the ancillary industries about which so many references have been made in the report of the Tariff Commission. But I find that there are some very serious facts which have come out as a result of the report of the Tariff Commission.

There are so many raw materials about which we have to be very shaky, for as long as we can foresee, if Government do not drastically change their present economic policy. In regard to steel for example, it is impossible that there is any chance of our producing rolled alloy steel allround bars. Even turnplates for fuel tanks are not available in this country, as so many other raw materials which were mentioned in the Tariff Commission's report. The nonferrous raw materials like aluminium, brass or copper are under the control of monopolist foreign interests. This being the case, naturally our industry would continue to suffer.

We see also that we cannot bring down the price of cars. We cannot bring about an increase in the production as well, because of so many other factors, because of petroleum prices, for instance. Only the other day, we had the information vouchsafed to us by the hon. Minister of Works, Housing and Supply that the Assam Oil Company makes profits to the tune of from one hundred to three hundred per cent. per annum, and the Assam Oil Company and similar foreign combines do not allow Government access to their books, so that we cannot at governmental level try to regulate and control these foreign capitalist concerns. Petroleum prices are surely a factor which stand in the way of an increase in the number of consumers as far as our automobile products are concerned.

Then again, rubber is a monopoly almost entirely of foreigners. The hon. Minister of Commerce and Industry knows very well, and I think he made a statement to that effect in this House some time ago that Indian made tyres and tubes are more costly in India than the British made tubes and tyres are in England. Even so, we have to import rubber from abroad, as far as most of our requirements are concerned. Rubber is a very major ancillary industry which is standing in the way of the real development of our automobile production, and I am worried also to find that we are permitting these monopoly interests in our own country, which, I repeat, are dangerously linked with foreign capitalist interests. We are allowing these companies to rule the roost, and the Tariff Commission has made certain recommendations about which I feel very dubious.

I find for instance that the Hindusthan Motors have made a demand for certain concessions, as far as export duties are concerned. They wanted to have a remission of export duties, in respect of whatever they send out, if their finished products are exported to countries like Burma and Ceylon which perhaps might take some of our products. Our Customs authorities, it appears, demanded to see the invoices of the Hindusthan Motors. The Hindusthan Motors, for

[Shri H. N. Mukerjee]

some mysterious reason were not in a position to produce these invoices, but the Tariff Commission, very generous to the Hindusthan Motors—for Heaven knows what reason—recommends that *pro forma* invoices should be enough, and after that, the necessary rebate of export duty should be given.

Now, I do not know the gentlemen who operate the Hindusthan Motors. But about them all sorts of nasty things are bruited about. Only the other day I had occasion to refer to the second edition of that book *Mystery of Birla House*, and I refer to it not because that book itself requires to be mentioned over and over again in this House.—It is a book, Sir, of which serious note has to be taken by Government—but because I find it quoted by a foregin journalist who recently wrote a book called "New World Arising". He refers to this book on the Birlas and says that in any other country the publication of a book of this sort would have meant either that Messrs. Birlas sued the writer or that something happened in regard to the continuation of Messrs. Birlas as an operating concern in this country. Nothing of the sort has happened. If this kind of thing happens, then I certainly have a right to feel extremely dubious—extremely doubtful—about the kind of favoured treatment which the Tariff Commission is suggesting to be applied in regard to Hindusthan Motors and their like.

Now, Sir, it is very necessary that we should try to increase the volume of passenger car production, and automobile production in general in our country. It is very necessary that we try and find a real equilibrium between the automobile industry and the development of all the ancillary industries. It is very necessary that we also find out the reasons why the ancillary industries are not developing. The Tariff Commission has referred to this matter and it says that there are certain foreign associates of these Indian automobile concerns which preclude the adoption of a right policy. I quite understand that, Sir. There are rubber interests, there are paint interests and there are oil interests which are always standing in the way. In regard to paint, I find, for example, that Imperial Chemicals, Alkali Chemical Corporation, Jenson and Nicholson and Shalimar Paints can always rule the roost as far as paint production is concerned; and it seems that there are certain agreements entered into by our Indian concerns with these foreign associates which preclude the adoption of a right policy, as far as the development of ancillary industries is concerned. I quite understand the Tariff Commission not having the courage to suggest the real remedy which is that these agreements between our Indian concerns and their foreign associates should be subject to the closest possible scrutiny by our Government, and if there is anything in these agreements which precludes the proper utilisation and proper development of our ancillary industries, then certainly drastic steps ought to be taken against these foreign associates because what we all want is the development of our indigenous automobile industry.

I say, therefore, that what Government said in 1948 in its declaration of economic policy should be followed up properly. Let us not have to say that Government's brave declarations have proved to be wish-fulfilling bubbles which burst without much loss of time. We all want the automobile industry to develop. We want it to get out of the clutches of these monopoly interests in our country which are so dangerously linked with monopoly interests abroad.

Shri M. S. Gurupadaswamy (Mysore): Mr. Chairman, Sir, I only want to emphasise one or two important aspects connected with the automobile industry.

Mr. Chairman: I think the hon. Member may make only suggestions. If he can finish within about 5 or 6 minutes, it will be better.

Shri M. S. Gurupadaswamy: First of all, I want some information from the hon. Minister whether there is a scheme or any policy with regard to the automobile industry, and if there is any policy framed, we want to know what steps the Government contemplate to take with regard to the acceleration or development of this industry.

Sir, we know that today there are 12 firms operating in the field of automobiles and all are private firms. The management of those concerns are pitiable. We have come to know that the establishment cost alone takes much of the expenses involved in this industry. The labourers employed are very few whereas the staff functioning in the offices alone are many. This is one of the causes why the price of automobiles here is comparatively high. Another thing, Sir is—I have read it in the reports—that the automobile assemblage here is done in co-operation with certain foreign firms, and those foreign firms have given certain standards and designs according to which alone the assembling has to be done. So they cannot produce cars or any commercial vehicles of a different design which is not prescribed by the agreement.

So there is not sufficient scope or freedom given to automobile manufacturers here. Another point is this. Now the Government has not thought of any plan so far to expand transport services in the land. Sir, if our automobile industry is to thrive, it is imperative that we should bestow our attention to expand transport services. Now there are so many bottlenecks in expanding transport services in the country. One bottleneck is that the duties on motor vehicles are exorbitant, apart from the high price they have to pay for vehicles. These two things—high prices as well as high duties—are responsible for the very low level of transportation here. Unless we expand the transport services, unless we give relief in the matter of taxation to those people who run transport services, it is very difficult to create demand for automobiles.

Moreover, there is another point to which I want to refer. That is very important. My friend, Dr. Krishnaswami was referring to the requirements of the defence industry. The automobile industry is very important and vital to the defence of the country. I want that the hon. Minister should make it a point that all automobile requirements for defence should be purchased from the manufacturers in India. No foreign vehicles—commercial vehicles or cars—must be purchased for defence purposes. If you adopt this policy, you will be helping the industry to expand.

Lastly, Sir, I refer to the private firms which are engaged in this industry. I want an inquiry to be conducted immediately by the Government. A Commission may be set up to inquire into the conditions prevailing in this industry. I was told that the high cost of production is due to lack of management and it may also be due to certain other difficulties which are the result of agreements entered into between the Indian capitalists and foreign capitalists.

So, I want an impartial Commission to go into the whole question. That Commission should also be asked to go into the cost structure. Till today we have not got any data regarding the cost of production and we are virtually in the dark. So, we want a thorough enquiry with regard to this aspect.

Lastly, Sir, I want that as far as possible auxiliary industries and the main industry should be developed simultaneously. We want to follow one-step method and not a step-by-step method in this matter. We do not want to have slow progress. The automobile industry is a very important industry; particularly, during emergencies it becomes all-important. So, we should take all measures to develop this industry both from the point of view of defence and also from the point of view of civilian needs.

Shri Bansal (Jhajjar-Rewari): I thank you, Mr. Chairman, for calling me. But, as I find I have only five minutes, I do not think

[Shri Bansal]

I can make a very valuable contribution. In fact, when I sent in my name to you, Sir, I was hoping that Dr. Krishnaswami who has been championing the cause of industrialisation in this country would be informing the House about the difficulties facing this industry. But I was taken aback at the way in which he referred to this subject. In fact, Sir, he a miracle as far as I am concerned.

Shri K. K. Basu (Diamond Harbour): Gone out of gear.

Shri Bansal: Even in these days of very quick travel he transported me to America in a matter of moments. I was, Sir, in that country recently and everywhere that I went—I was there at a time when the Tariff Commission's report had just come out and the Government's resolution on this industry had been announced—in fact, I had not known about it—I was assailed with a number of questions—very much of the type which the House heard from Dr. Krishnaswami today. I do not think any comment is needed on this. In that country, the industrialists who have been having only assembling programme of American motor-cars here, were feeling annoyed that the Government of India had the temerity to adopt the suggestions of the Tariff Commission and accept its recommendations in assisting those factories which were embarking on a manufacturing programme, and telling the assemblers that their days were numbered. Today, I find Dr. Krishnaswami voicing those very feelings.

Dr. Krishnaswami referred to the saying of 'Dog eating dog'. I was reminded, when he referred to this, of the heroic efforts that were being made by Indian industrialists to put up this industry in the country in the face of opposition from the British Government. I was particularly reminded of the efforts of the late Shri Walchand Hirachand. I could not agree with Dr. Krishnaswami's remarks that dogs were biting dogs at that time and that is why this industry did not develop in India.

I was surprised, Sir, when he said that, although there is no demand in this country for automobile vehicles, Government should take over the manufacture of bigger vehicles. Sir, if there is no demand in this country for automobiles, how will it be economic for Government to undertake the manufacture of heavier vehicles?

Dr. Krishnaswami: For defence purposes.

Shri Bansal: Does it mean that they should be produced at an uneconomic cost and was he implying that the Chittaranjan Locomotive Factory could manufacture motor vehicles? I was surprised, at the bundle of contradictions he presented to the House. I am sorry, I cannot match with his eloquence and I have no time to match facts with these half-truths and half-facts.

I am sure, Sir, from what I have said the House would not be deceived at all in believing as to where the real good of the country lies, whether in developing this industry or in allowing the industry to shut down and allow the import of cars in completely built up and knocked down condition and allowing their assembly here.

Dr. Krishnaswami made another surprising suggestion that before we begin to manufacture full cars, subsidiary and ancillary industries should be allowed to develop. Has it ever happened? Has he studied the development of the automobile industry in America and other countries?

Dr. Krishnaswami: I have.

Shri Bansal: I have also done, Sir. I have read the autobiography of Ford and Chrysler and I have known of the early efforts they made in developing this industry. Sir, I have seen a picture where Mr. Chrysler is seen with the manufacture of very ordinary tools, which you won't believe you can manufacture an automobile from, because that was the condition of that industry then. There was no ancillary or subsidiary industry existent at that time in that country. It is the manufacture which started first and the ancillary and subsidiary industries developed later on. It is bound to happen that way and I dare say that it has happened in every country also that way. Sir, I would earnestly request Dr. Krishnaswami to forget the past and his prejudices and turn a new leaf and help in the industrialisation of this country which he is keen on advocating off and on in this hon. House.

1 P.M.

Shri K. K. Basu: Sir, may I ask a few questions?

Mr. Chairman: Yes.

Shri K. K. Basu: I would like to know the percentage of the productive capacity that is being produced under the existing arrangement, in the different manufacturing concerns. Then, I would like to know the percentage of the cost of materials imported as compared with the total cost of manufacture. And, thirdly, I would like to know the percentage of the share of the foreigners with patent rights and their brand who are engaged in the manufacture.

Shri V. P. Nayar (Chirayinkil): Sir, I find that the average production of automobiles has been 19788 for the last year. I also note from the Tariff Commission's report that actually the industry engaged only 6313 workers. That would mean on an average one worker has produced 3 or 4 automobiles. Is it not a fact that what you call manufacture is only merely assembling and polishing?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): Mr. Chairman, Sir, I am grateful to the hon. Dr. Krishnaswami for raising this discussion, and I think, at a time when the policy of Government is in the process of becoming crystallised, a discussion of this nature is extremely helpful. I would also like to compliment Dr. Krishnaswami on presenting, a very clear story or rather a version of what he wanted the automobile industry to be. In fact, Sir, there may be certain points on which we may disagree, but, I do feel that my hon. friend Mr. Bansal was unduly harsh upon Dr. Krishnaswami; and it is a point of view, which, I think, has a certain validity in the circumstances in which we are placed.

Shri A. M. Thomas (Ernakulam): It is only a quarrel between two America-returned men.

Shri T. T. Krishnamachari: I do not think Dr. Krishnaswami needs any more support from me. Sir, the basis of the complaint made by Dr. Krishnaswami and also by Prof. Hiren Mukerjee was that the hopes that were held out have been belied. Sir, I am not very good at quotations, but I do remember having read in days when I was at school an English poem. At the end of a stanza it says......

Dr. Krishnaswami: Hopes are dupes.

Shri T. T. Krishnamachari: No. it is a different one. Hopes blasted, name blighted, life's life lied away.

I am quoting from Byron, not an elegant poet. That is the lot of Ministers of Cabinets. We reconcile ourselves to such occurrences. To all intents and purposes our hopes fall into this category and therefore we pitch our hopes rather low.

In this connection, I must say that Dr. Krishnaswami finds a sympathetic soul in me for the reason that when I was not on the Treasury Benches I had my own doubts as to the manner in which we are going about this automobile industry. But, today, Sir, I must agree that Government are not writing on a clean slate. We have made certain advances and there is no use blinding our eyes to the fact that the advances that have been made are not all in the right direction. It may be that they have been made at great cost to the consumer, at great cost to certain interests. But, unfortunately, the advances are there and it is a fact which we cannot shut our eyes to. It is sure, Sir, that the Tariff Commission had to conduct its enquiry on this basis. I am sorry to say that

[Shri T. T. Krishnamachari]

my hon. friends have been rather hard on the Tariff Commission. They have been so hard that my hon. friend from Mysore wants another Commission. Well, if we go on appointing Commission after Commission, we can await the report of these commissions and nothing will be done. Here, at any rate, there has been a very honest attempt at appraising the position of the industry and they have been ably assisted by an automobile expert from Germany who is not tied up with any particular automobile factory. I do propose to make his report available to the Members of Parliament and to the public. It is an extremely good report and I think so far as technical guidance is concerned, the Tariff Commission had the best guidance that they possibly could get.

Sir, Dr. Krishnaswami objected to the statement made by the Tariff Commission on page 51. I hope, Sir, you won't feel offended when I say that the trouble is that oftentimes the lawyers take only such of those passages as are favourable to them and forget the context.

Mr. Chairman: This is not peculiar to lawyers only.

The Minister of Finance (Shri C. D. Deshmukh): He gets some privileges.

Shri T. T. Krishnamachari: The quotation has been from para. 11, sub-para (c). Here the Commission say,—

> "Conflicting evidence was placed before us in regard to the minimum volume required for economic manufacture of motor vehicles."

They go on to say:

> "One is that a large volume of about 30,000 is required for mass production; the other is that with a small volume it is possible to manufacture motor vehicles in India at reasonable prices provided the resources of the ancillary industries are profitably utilised."

This is a statement of fact which has been put before them in the shape of evidence. It is not the conclusion of the Tariff Commission and with that I would leave that aspect of Dr. Krishnaswami's criticism. Therefore, Sir, the Tariff Commission was placed in the same position as any of us. While there are countries like the United States of America which works on the basis of mass production, and needs a certain quantum of production to run the factory economically, there are again countries like Germany which work with what look more or less street factories, where the manufacture is being done, where assembly is being done. So, both sides of the picture are available. There is no denying the fact that mass production leads to economy, but the question really is whether you want an industry in this country or not. If you want the industry in this country and the demand in this country is not very great, well, naturally, the productive methods used cannot be very economical and we have to deal with that position from a different angle altogether.

Sir, Dr. Krishnaswami suggested that we should categorise this question under two heads: strategic demand and the consumer demand. He also said that the strategic demand should be met by a nationalised factory. It is a very good suggestion. In fact, my own reactions are—and I am not committing the Government to any statement of policy—that if in the next twelve months we do not find that development has taken place adequate to meet the strategic demand, well, I do not see why Government should not take a step forward in this direction. Because, in my view, the strategic demand is not merely the defence requirements; it is also the transport requirements of the country,—which is equally necessary in the interest of the country's economy. The suggestion made by Dr. Krishnaswami will certainly be borne in mind. We are prepared at the moment to give those people who have a manufacturing programme and the necessary equipment and those who might probably come in in the next six months with the necessary equipment to meet this demand a chance. If they do not, the strategic demand will have to be met by other means.

The other point that he mentioned that cars can be assembled cheaply if ancillary industries are developed is one which we cannot take exception to. I may tell him that is how our mind also runs. In saying this I would like to take the House into my confidence and admit that our policy is in a formative stage. We are beginning from where the Tariff Commission had left it. We have called upon the five manufacturing firms to submit their programme, those which would be able to manufacture the majority of the parts of the car,—it may be 60 per cent. it may be 65 per cent. or it may be even 55 per cent. But we would like to have their programme. When they bring their programme, before us we can tell them: "Well, somebody else can manufacture this part, you might buy it from them. In fact, we have appointed another committee to carry out a survey of the engineering capacity in the country. One of the terms of reference to that Committee is that they should find out if certain factories cannot manufacture some of the ancillary requirements either of automobiles, or of textile machinery or of something else. This is how we want the industry to be built up. So, any suggestion that comes forward from the mouths of hon. Members in this direction is certainly welcome and I do not resent it at all, because we recognise that our knowledge in this matter is not perfect: it is very limited. A suggestion from an hon. Member which gives us an indication of the direction of approach is therefore welcome.

My hon. friend Mr. Hiren Mukerjee has been kind, as usual. (*Laughter.*) There is nothing to laugh at all. After all to put out a point of view which is not palatable in a manner which is suave is certainly an art. I envy him in that respect. But he cannot escape the temptation of bringing in King Charles' head: the question of foreign interests, what the foreign interests are doing, how they are exploiting the country, how tyres are sold at a higher price in this country than in England and how I have myself admitted it, how the Tariff Commission has said something about foreign associates in paragraph 20, sub-clause (1) at page 82. Well, they are all factual statements from the angle of view from which he looks at it. I do recognise that there is an element of truth in it, as I have said this morning that there is an element of truth in all slogans, and perhaps a higher quantum of it here. The fact remains that while the Tariff Commission has recommended that dependence on foreign associates in regard to technical know-how, designing and getting jigs and tools for new models should progressively be eliminated, it does not mean that we can do straightway without foreign help. Even in Russia—if my information is correct—in the days when they started the automobile industry, they went and bought from Mr. Ford jigs and tools of models which he had rejected. Those were the models that were put out in Russia. In fact, I do not think there has been any country which has developed rapidly in the industrial field which has made as much use of foreign technical talent and foreign know-how as Russia. Of course, now they are in a position to do things themselves. But initially they did make use of foreign help fairly liberally. I would only ask Mr. Mukerjee just to consider that we are in the same position as Russia was in 1927, not in 1917. And when we have to build from that stage, we cannot do it altogether without foreign help. I do agree with him that it should not bind us or that we should hitch our wagon to them. We do not want one wagon to run along with them stand. My hon. friend Mr. H. N. Mukerjee

[Shri T. T. Krishnamachari]

knows that we do not want to do it. We shall certainly take care to see that that does not happen.

One point that he mentioned was about the export duties in regard to the Hindusthan cars. My hon. friend is perhaps not aware of the fact that my hon. colleague the Finance Minister has brought forward a Bill before this House which, if passed, will enable us to give a rebate in regard to import duties on goods exported, taking into account that quantum of import duty that goes into the manufacture of a particular article. I think he would agree with me that it is a good thing to develop some export markets and give some encouragement to our local manufacturers to go in for exports. I do hope that some time later, in about five or six years, we shall have an export market for the cars manufactured in this country.

Mr. Gurupadaswamy, I am afraid, has, as usual, been slightly beside the mark. I do not agree with my hon. colleague, Mr. Reddy. It is a case of Mysore against Mysore. I am from Madras. He wants to do all that has to be done at one step, and not step by step. I am afraid I have never practised long jump, and I am 53 years old. It is far too late for me to begin it. I have got to go step by step. Sometimes, I am not quite sure, of my steps so I have also got to use a stick.

I am very sorry that Mr. Bansal entered into polemics, whereas he could have made a material contribution to the debate. I value very much any criticism of Government's policy. If he feels that Government's policy is halting, he should have criticized it, and left Dr. Krishnaswami alone.

The Chitragupta of the Communist party asked for statistics.

Shri S. S. More (Sholapur): Sir, are not titles prohibited?

Shri T. T. Krishnamachari: These titles have been handed to us from the past—I shall attempt to devise some title for Mr. More later, but at the moment my imagination does not run very wild. Mr. V. P. Nayar is an assiduous student of statistics. I see every day, thanks to the Secretariat of the House of the People, unstarred questions in regard to all kinds of information, which I cannot possibly give him. In this particular instance, I am not able to oblige my hon. friends Mr. Basu and Mr. V. P. Nayar. I am afraid I cannot give the figures at the moment. There is one mistake which Mr. Basu made. He wanted to know what percentage of the productive capacity in these units is being utilized: He asked: what is the productive capacity. I am afraid the productive capacity is on an assembly basis, not on the basis of production of all the parts. The question of productive capacity on an assembly basis where there are no assembly lines, so to say, is merely a matter of area which the factory occupies. That is the productive capacity today, and therefore we have no yardstick to gauge until we reach a higher stage or a better stage of manufacture. So far as percentage of import by various factories is concerned, I would recommend that my hon. friend Mr. Basu should read the report. It is a good report, as I said. I shall also make available to the hon. Mr. Vorwig's report. It deals with the existing structure of the various factories. Even with the assembly plants, I am told that we have reached a stage where we manufacture about 30 to 40 per cent. of the parts required for the car in one factory. These are made by the Hindusthan factory. I believe within another six months, they will make further progress. The other factories are in the stage of establishing their manufacturing plant so far as engines are concerned, and we are asking for their programme. Sometime later, perhaps during the budget session, I may be able to enlighten the hon. Members about the exact stage in which the automobile industry is placed, but at the moment, it is a little too early.

May I say, Sir, that the general statement of Government policy is an acceptance of the Tariff Commission's report, subject to certain minor changes. Government are seized of this problem. We have appointed a Committee of the Secretaries of the various Ministries concerned, who are vitally concerned in the development of the automobile industry, to be in more or less close touch with the progress that is made from time to time, and probably we will have an expert visiting these factories and checking up the rate of progress. I do hope we will be able to give a better story later.

One point with which I shall deal before I sit down is about the question of development of road transport generally. I think my hon. friend Dr. Krishnaswami did raise the question of State taxation and the high cost of motor vehicles which is impeding the development of road transport. While on this subject I do feel that our estimates in regard to what we call public service transport has been rather on the conservative side. With all the development that has taken place and the development that will take place in the near future, if our plans go through, we might envisage before the next ten years a demand, so far as the public transport is concerned, in the region of somewhere between 80,000 and 1 lakh of vehicles a year. That will make the industry economic also; but to develop it, we do want the cooperation not merely of these factories but also of the States. State taxation is unduly high today, and Government are in correspondence with the States, to implement the recommendations made by the Tariff Commission, and to see that taxation is brought down. We would indeed like to bring down our duties, the cumulative effect of which should be that the price of vehicles should come down and also the operation costs lowered. There, the point made by the hon. Mr. H. N. Mukerjee also comes in. We will probably have to make an evaluation of the cost of petrol but it might be that our own taxation of petrol, both Central and State, is heavy enough and that perhaps operates as a limiting factor more than even the cost. But these are matters to be gone into. We do propose to go into these matters. We are in correspondence with the States, and the general lines indicated by hon. Members—by Dr. Krishnaswami and Prof. Mukerjee—are the lines which we shall keep in mind in our negotiations with the States and in formulating our policy regarding the automobile industry.

Mr. Chairman: We will now adjourn. The House will meet again at 4.0 P.M.

The House then adjourned till Four of the Clock.

The House re-assembled at Four of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

THE ESTATE DUTY BILL—*Contd.*

Mr. Deputy-Speaker: The House will now resume the discussion on the Estate Duty Bill. Clause 19 was disposed of.

New Clause 19A.— (*Power to make rules etc.*)

Shri C. D. Deshmukh: I beg to move:

In page 13, *after* line 48, *insert*:

"19A. *Power to make rules respecting controlled companies generally.*—(1) The Board may make rules—

(a) prescribing the class of dispositions or operations which shall be deemed to be transfers to controlled companies within the meaning of section 17;

(b) prescribing the matters to be treated as benefits accruing to the deceased from any such controlled company, the manner in which their amount is to be determined, and the time at which they are to be treated as accruing.

[Shri C. D. Deshmukh]

(c) prescribing the manner in which the net income and the value of the assets of any such company are to be determined;

(d) prescribing the manner in which the accounting year of any such company is to be reckoned;

(e) prescribing the manner in which the shares and debentures of any such company passing upon the death of the deceased are to be valued for estate duty;

(f) providing an upper limit by reference to the value of the property transferred by the deceased to any such company and preventing duplication of charge where duty would otherwise be payable in respect of both the assets of any such company (or a proportion of them) and the deceased's holding of shares and debentures in any such company;

(g) prescribing the conditions upon which and the extent to which transactions in the name of any such company shall be deemed to be *bona fide* transactions for full consideration; and

(h) generally for the purpose of checking the avoidance of estate duty through the machinery of any such company.

(2) All rules made under this section shall be laid before the House of the People for not less than fifteen days before the date of their final publication."

All that I would say is that it reproduces the original sub-clause about rule-making power (which was deleted under clause 17). Sub-clause (f) has also been included. This refers to section 51 of the U.K. Act of 1940 as amended by section 38 of the Act of 1944. It does not pertain exclusively to section 17. In substance it is only a drafting change.

Mr. Deputy-Speaker: The question is:

In page 13, *after* line 48, *insert*:

'"19A. *Power to make rules respecting controlled companies generally.*—(1) The Board may make rules—

(a) prescribing the class of dispositions or operations which shall be deemed to be transfers to controlled companies within the meaning of section 17;

(b) prescribing the matters to be treated as benefits accruing to the deceased from any such controlled company, the manner in which their amount is to be determined, and the time at which they are to be treated as accruing;

(c) prescribing the manner in which the net income and the value of the assets of any such company are to be determined;

(d) prescribing the manner in which the accounting year of any such company is to be reckoned;

(e) prescribing the manner in which the shares and debentures of any such company passing upon the death of the deceased are to be valued for estate duty;

(f) providing an upper limit by reference to the value of the property transferred by the deceased to any such company and preventing duplication of charge where duty would otherwise be payable in respect of both the assets of any such company (or a proportion of them) and the deceased's holding of shares and debentures in any such company;

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(h) generally for the purpose of checking the avoidance of estate duty through the machinery of any such company.

(2) All rules made under this section shall be laid before the House of the People for not less than fifteen days before the date of their final publication."

The motion was adopted.

New Clause 19A *was added to the Bill.*

Clause 20.— (*Foreign property*)

Shri K. K. Basu: I beg to move:

In page 14, line 16, *after* "purposes of this section", *insert*:

> "provided that the assets situated or located in India of the Company or the Corporation incorporated outside India shall for the purpose of the Act and the Section shall be taken as situated and/or located in India, *i.e.*, within the territories."

In moving this amendment I would like to emphasise the point that there are a large number of foreign companies whose entire assets are in India but they are incorporated in the United Kingdom. We know the history of these companies, and under the existing clause 20 of the Bill under discussion the shares of these companies will be deemed to be movable property situated outside the taxable territory and therefore they will not come under the purview of this particular Act. Therefore I would like to emphasise through this amendment that even though they may be incorporated in England, if they have their entire assets in India they should be deemed for the purpose of this section to be situated within the taxable territory, that is India. Because most of the managing firms, whatever assets they have got, have them in India. But they may have registered their office nominally in England so that on the strength of that the shares might be considered as the shares of a firm registered in England. Therefore I would like to emphasise that for the purpose of this clause the assets of these companies, whether they are in the shape of shares or in stock, should be deemed as assets in the territory of India. This is the short point that I would like to emphasise through this amendment. Unless we amend the clause in this fashion there is no chance of taxing these foreign assets which it is absolutely necessary to do for the purposes of our national development. There is no point in going into detail about this, about the quantum and volume of the assets. That is well known to all of us. I therefore hope the Government will accept this amendment.

Shri C. D. Deshmukh: The *situs* of shares of foreign companies operating in India will be determined in accordance with the rules to be framed for the purpose. Ordinarily the *situs* of shares of a company is in the country where the company is registered. In certain circumstances however where the certified register of the company is maintained in India, the *situs* of the shares of even foreign companies will be in India, and such shares would therefore be dutiable. But in respect of those companies which earn more than 50 per cent. of their profits in India, provision has already been made in clause 80(1). Therefore it seems to me that we have provided for this.

There is another amendment by Mr. Nayar. But that has not been moved.

So administratively we feel that this will not be workable. If an Australian holds shares in a British company in India, there is no means of recovering the duty when the Australian dies. It is only when the company has assets in India that recovery is possible, and that too only through the company. And that we have provided for in clause 80(1).

Shri S. S. More: May I ask a question? You have excluded under sub-clause (1) (a) immovable property situated outside the territories to which this Act extends. Suppose an *ex*-Ruler of a State has got properties in France or some other foreign

[Shri S. S. More]

country. On his death what would happen? Will his property in the foreign country be excluded?

Mr. Deputy-Speaker: It is governed by private international law. Whosesoever the immovable property, it cannot be touched.

Shri C. D. Deshmukh: Yes, Sir.

Shri S. S. More: By clause (b) movable property also would be excluded in certain circumstances.

Shri C. D. Deshmukh: In the case of domicile, that is the criterion.

Mr. Deputy-Speaker: Hon. Members may look into the Indian Succession Act. There are similar provisions.

The question is:

In page 14, line 16, *after* "purposes of this section", *insert*:

> "provided that the assets situated or located in India of the company or the Corporation incorporated outside India shall for the purpose of the Act and the Section shall be taken as situated and/or located in India, *i.e.*, within the territories."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

> "That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

New Clause 20A

Shri Nand Lal Sharma (Sikar): I beg to move:

In page 14, *after* line 16, *insert*:

> "20A. (1) The claims of a refugee with regard to property left in Pakistan, passing on his or her death to his or her heirs, shall not be subject to the levy of estate duty.
>
> (2) The property acquired by a displaced person after his or her displacement from Pakistan, for the purpose of settling in India, shall not be subject to levy of estate duty for the first ten years from the commencement of this Act."

Mr. Deputy-Speaker: Mr. Ram Sahai Tiwari's amendment is the same. Mr. Nand Lal Sharma may speak on his amendment if he wants or if the amendment is self-explanatory, he need not speak.

Shri Nand Lal Sharma: I will speak a few words.

वर्मेण शासिते राष्ट्रे न च बाधा वर्तते ।
नाधयोव्याधयश्चैव रामे राज्यं प्रशासति ।।

Sardar A. S. Saigal (Bilaspur): We want to know the meaning of this.

Shri Syed Ahmed (Hoshangabad): We cannot follow.

Mr. Deputy-Speaker: When Rama was ruling, everything was all right.

Shri S. S. More: Does he want to suggest that there is Ravana Raj now?

Mr. Deputy-Speaker: The hon. Member may go on with his speech.

श्री नन्दलाल शर्मा : माननीय उपाध्यक्ष महोदय, सिद्धान्ततः मैं पहले निवेदन कर चुका हूं कि हम इस विधेयक के विरोधी हैं । मृत्यु के सम्बन्ध में किसी प्रकार का कर किसी व्यक्ति पर नहीं होना चाहिये, इस सिद्धान्त का हम ने पहले प्रतिपादन किया है । राज्य को प्रजा के द्वारा कर की प्राप्ति होनी चाहिये, इस सिद्धान्त के विरुद्ध हम नहीं हैं, किन्तु उस के बहाने से जहां प्रजा को विशेष लाभ भी न होने वाला हो, राजा के कोष में भी अधिक सम्पत्ति न आने वाली हो, जैसे कि हम इतने पिछले सारे

नियमों से देख चुके हैं इसलिये हम इसका विरोध करते हैं । हम को पता लगता है कि इस विधेयक का सीधा तात्पर्य हिन्दू ला को खराब करना, उस को मिटाना है । तदनन्तर भारतवर्ष की सभ्यता के अनुकूल दान प्रणाली का जैसे सर्वनाश किया गया है गिफ्ट्स के अन्दर, वह भी हम ने देखा है । आतुरकालिक दानों को भी इसी तरह से नष्ट किया गया है । 'गृहीत इव केशेषु मृत्युना धर्ममाचरेत्' इस सिद्धान्त के अनुसार अन्तिम समय में जो दान होना चाहिये, वह भी आप की सैक्यूलर स्टेट ने स्वाहा कर दिया ।

इस सम्बन्ध में मैं शासक वर्ग से, शासक बैंचों से केवल यही निवेदन करूंगा कि उत्पीड़ित रिफ्यूजी आप जिन को कहते हैं, आप लोग उन के कारण ही यहां आज पार्लियामेंट में बैठे हुए हैं । उन के बलिदान से ही आप ने भारतवर्ष का विभाजन स्वीकार किया और तभी यहां आप के राज्य की स्थापना हुई है । उन के क्लेम्स किसी अंश में हम फारेन प्रापर्टी के रूप में स्वीकार करते हैं, क्योंकि उन की जितनी सम्पत्ति है वह दूसरे देश में है, पर राष्ट्र में स्थापित है । एतावत भी हम ने बीसवीं धारा के साथ साथ एक और धारा जोड़ने के लिये निवेदन किया है । आप ने एक पूरा का पूरा विभाग इस के लिये खोल रखा है । नित्य निरन्तर आप की बातचीत पाकिस्तानी प्रधान मंत्री के साथ होती है । निश्चय कुछ नहीं है कि आप कुछ देने वाले हैं या नहीं । किन्तु उन लोगों का, जिन की आप की ओर दृष्टि पड़ी हुई है कि सम्भवतः आप उन के भाग्य का कुछ निर्णय करेंगे, उस के ऊपर आप की इस डैथ ड्यूटी, ऐस्टेट ड्यूटी का टैक्स नहीं होना चाहिये, यह मेरा पहला निवेदन है ।

इसी के साथ साथ हमारे प्रधान मंत्री का बार बार कहना है, यह घोषणा की गई है कि हम उत्पीड़ितों का यहां पुनर्वास करेंगे, उन को यहां स्थापित करेंगे । मेरे दूसरे भाग में यह भी निवेदन किया गया है कि उत्पीड़ितों द्वारा अपने पुनः संस्थापन के लिये जो सम्पत्ति यहां भारतवर्ष में खरीदी गई है उन के ऊपर डैथ ड्यूटीज का किसी प्रकार का लगाम नहीं होना चाहिये । दोनों ही परिस्थितियों में यह टैक्स नहीं लगना चाहिये । एक परिस्थिति में तो उन का क्लेम है । वह क्लेम जब कभी मिलने वाला हो, यदि उस के मिलने से पूर्व क्लेम करने वाला व्यक्ति मर गया और उस के क्लेम की जो कुछ भी रक़म उस के आगे के प्रजावर्ग को मिलने वाली हो, उस के ऊपर एस्टेट ड्यूटी का टैक्स नहीं होना चाहिये । दूसरे यदि आप अपनी प्रतिज्ञा सच्ची रखते हैं कि आप उन का पुनः संस्थापन करना चाहते हैं और आप उन की सहायता करना चाहते हैं, उन के कष्ट में किसी प्रकार सहानुभूति रखते हैं, तो कम से कम जो सम्पत्ति उन्होंने भारतवर्ष में खरीदी है, अपने पुनः संस्थापन के लिये, उस के ऊपर कम से कम प्रथम दस वर्ष तक कोई टैक्स नहीं होना चाहिये । यह मेरा दूसरा निवेदन है । मैं विश्वास करता हूं कि संसद् इस बात को स्वीकार करेगी ।

इतना कह कर मैं समाप्त करता हूं ।

श्री सी० डी० देशमुख : उपाध्यक्ष महोदय, मुझे खेद है कि मैं यह सुझाव स्वीकार नहीं कर सकता हूं । शासन प्रजा से कर आदान करता है, जैसे कि दिनकर समुद्र से फिर पर्जन्य रूप में लोक कल्याण के लिए, देश के वास्ते, कई बार देने के लिए ।

उपाध्यक्ष महोदय : सहस्र गुणमुत्स्रष्टुम् आदत्तेहि रसम् रविः ।

Shri Nand Lal Sharma: In the fashion of King Ven.

श्री सी० डी० देशमुख: यह आप क्या अंग्रेजो की बात करते हैं।

पीड़ितों के पुनः संस्थापन के लिए तो शासन पर्याप्त व्यय कर चुका है और कर रहा है।

Mr. Deputy-Speaker: The question is:

In page 14, *after* line 16, *insert*:

> "20A. (1) The claims of a refugee with regard to property left in Pakistan, passing on his or her death to his or her heirs, shall not be subject to the levy of estate duty.
>
> (2) The property acquired by a displaced person after his or her displacement from Pakistan, for the purpose of settling in India, shall not be subject to levy of estate duty for the first ten years from the commencement of this Act."

The motion was negatived.

Clause 21.—(*Property held by the deceased trustee*).

Shri C. C. Shah: I am not moving my amendments.

Shri G. D. Somani: I beg to move:

In page 14, lines 22 to 26, *for*

> "possession and enjoyment of the property was *bona fide* assumed by the beneficiary at least five years before the death and thenceforward retained by him to the entire exclusion of the deceased or of any benefit to the deceased by contract or otherwise;"

substitute:

> "enjoyment of the property was *bona fide* assumed by the beneficiary at least one year before the death to the entire exclusion of the deceased or of any benefit to the deceased by contract or otherwise."

Shri C. D. Deshmukh: I beg to move:

(1) In page 14, line 24, *for* "five" *substitute* "two".

(2) In page 14, *for* lines 27 to 33, *substitute*:

> "Provided that in the case of property held by the deceased as sole trustee for another person under a disposition made by himself, the period shall be five years."

Shri G. D. Somani: I beg to move:

In page 14, *for* lines 27 and 28 *substitute*:

> "Provided that property held by the deceased as trustee for public charitable purposes shall not be included in the property passing on death."

Shri U. M. Trivedi: I beg to move:

In page 14, *for* line 28 *substitute*:

> "for a minor beneficiary or for public or charitable purposes there shall be no bar of any period."

Pandit C. N. Malviya (Raisen): I am not moving my amendment.

Shri U. M. Trivedi: I beg to move:

In page 14, *omit* lines 29 to 33.

Shri G. D. Somani: I beg to move:

In page 14,

(a) line 29, *after* "Explanation" *insert* "1", and

(b) *after* line 33, *insert*:

> "*Explanation* 2.—Where the property was held by the deceased as trustee under a disposition or trust settlement made by the deceased and the income thereof if assessable has been assessed or is assessable for income-tax purposes on behalf of the beneficiary or beneficiaries concerned and the settlement was made one year before the death of the settler, the

> possession and enjoyment of the property by the beneficiary or beneficiaries shall be deemed to have taken effect on the date the settlement or disposition was made by the deceased."

Mr. Deputy-Speaker: All the amendments are now before the House. First of all, let me hear the hon. Finance Minister.

Shri C. D. Deshmukh: There has been a persistent demand to bring the statutory provision in this clause on a par with the period, that is to say two years, specified in Clauses 9 and 10, so that, so far as liability to duty was concerned, there would be no distinction between disposition of gifts made under a trust on the basis whether the owner was himself a trustee or not. The intention of the Select Committee in amending the Clause was that where the deceased was the sole trustee to a disposition made by himself, he should hand over the trust property to the beneficiaries before five years of death in the case of a private trust, so that the *bona fides* of the transaction may be determined on a surer basis. But the wording of the Clause as it stands might make the five year period applicable also to those trusts where the deceased was a co-trustee with another under his own disposition. So, the amendment now proposed makes an exception, or confines that exception, only to the case of properties held by the deceased as a sole trustee under a trust created by him. The proviso to the existing Clause is to be omitted because it is difficult to visualise how the trustee for a public charitable purpose can hand over the trust property to the beneficiaries. Clause 21 was never intended to apply to cases of public charitable trusts, and there is no provision corresponding to this in the United Kingdom law.

Then there is the Explanation which is being omitted because we find that it is probably misconceived. What is contemplated by Clause 21 is beneficial possession, and not physical possession, and it is, therefore, not correct to say that someone else other than the trustee should take possession of the property. So long as the possession is attributable to the beneficiary, this Section will be satisfied. Therefore, we think the Explanation is not necessary.

Shri K. K. Basu: The Finance Minister was a Member of the Select Committee. He has tried to read the mind of the Select Committee. I do not know whether it is correct or not. As a Member of the Select Committee he did not put in a note of dissent, but at this stage how can he move an amendment to that particular provision by distinguishing the two different cases, the one where he is the sole trustee, and the other where he is a co-trustee. I can understand about the other part. Where there may be ambiguity, for the sake of doing away with the ambiguity, an amendment may be moved.

Shri Raghavachari: I invite the attention of the Finance Minister to the words "possession and enjoyment" in lines 22/23. It is not mere beneficial enjoyment or beneficial possession that was contemplated, but both possession and enjoyment. That is the reason why the Explanation was put in. The Finance Minister may recollect that this was very much debated and with some kind of greater volume of opinion, this period of two years was made into five. So, the Explanation was inserted only to make it perfectly clear that the possession here must be real possession, if a minor, it maybe a possession of somebody on his behalf. It was really thought that it must be physical possession. The Explanation was put for the purpose of benefiting minors.

Shri U. M. Trivedi: That is what my amendment seeks to do. Otherwise, this amendment has no meaning left. What happens to a beneficiary who is a minor? If the beneficiary is not *sui juris*, then what is the meaning of the Explanation. If the Explanation goes away, then there is, in fact, contemplation only of a *sui juris* being a beneficiary.

Shri C. D. Deshmukh: Therefore, the Explanation is being omitted.

Shri U. M. Trivedi: If a person who is a minor is a beneficiary, what happens in his case?

Shri C. D. Deshmukh: It should be constructive possession and enjoyment.

Mr. Deputy-Speaker: If the Explanation goes, what happens to a minor who cannot take possession? According to the earlier portion, if the deceased is himself a trustee, to show the *bona fides*, that it is not a faked one, he must hand over possession and enjoyment to the beneficiary within five years, now reduced to two years. It is intended to give this benefit to minors also who are legally incompetent to take possession and enjoyment. To avoid any difficulty in such cases, the Explanation has been added that it may be possession or enjoyment by the guardian of the minor. It is tantamount to possession by the minor, and therefore, that is accepted. If this Explanation is taken away, no minor can take possession of the property That will be the difficulty. I do not think it is right to exclude the Explanation. The hon. Minister may consider.

Shri Raghavachari: The Explanation part may be added at the end of the two- amendments by the Finance Minister.

Mr. Deputy-Speaker: Amendment Nos. 525 and 526 are both in order. Where is the omission of the Explanation?

Shri Raghavachari: Only the Explanation has to be added.

Mr. Deputy-Speaker: The amendment is:

> "In page 14, *for* lines 27 to 33, *substitute*..."

i.e., including the proviso, till the end. I think he must restrict it to line 28. Public charitable purpose is sought to be done away with first; then the proviso is sought to be done away with, and in its place, the new proviso put in.

Shri C. D. Deshmukh: Yes.

Mr. Deputy-Speaker: Then it will meet the purpose if it is said:

> "In page 14, *for* lines 27 and 28, *substitute*..."

Shri Raghavachari: Omit line 29 and the rest.

Mr. Deputy-Speaker: This proviso is sought to be substituted for the other proviso, but the lines have not been restricted to 27 and 28. By mistake, they have been carried on to 33.

Shri C. D. Deshmukh: The Explanation is sought to be omitted.

Mr. Deputy-Speaker: If it is omitted, the benefit will not go to minors. A person who creates a trust is in possession of the property, and therefore, normally it will be treated as property passing on his death. However, an exception is made in such cases where the property is transferred away to the beneficiary before a period of two years and the possession and enjoyment are both with him. If that is so, a *sui juris*. who is a beneficiary can take advantage of it under the amendment. But if he is a minor, how can he take possession. A transfer to him may not be easy.

Shri C. D. Deshmukh: That is as in other matters when interests of minors and others are concerned. The minor's interest is represented by whosoever is his legal representative or his guardian. Therefore, it is not our intention to take away the advantage from the minor, but we say the ordinary interpretation of law and possession and enjoyment by a beneficiary would cover these cases.

Mr. Deputy-Speaker: The difficulty is this. When there is a particular Explanation and then it is taken away, there may be an interpretation that it is not intended to cover the case of a minor. Otherwise the ordinary law will apply. If this explanation is taken away, in the future any one may argue that in the Bill there was an explanation which was taken away.

Shri Pataskar (Jalgaon): That is exactly the point.

Shri C. D. Deshmukh: How the matter is going to be interpreted in a court of law ten years hence no one can say.

Mr. Deputy-Speaker: If this explanation is taken away, then any one can say that at one time there was an explanation in the Bill, but subsequently it was taken away.

Now, let us look at the question from the other point of view. I suppose the hon. Minister has no objection. He does not want to take away the right of a minor through his guardian or court of wards. In substance, he does not want to exclude the benefit from the minor. Now does this explanation cover only that case? Or is the hon. Minister taking exception to this on the ground that the clause is of much wider scope, and therefore this is not necessary? Supposing it is wider in scope, then there is no harm in allowing it to continue, so that there may be no misunderstanding.

Shri Pataskar: It is open to argument. Supposing any case arises subsequently and it is argued that it does not apply to a minor, then the point will be argued that there was an explanation in the Bill as a matter of fact, but it was thought fit that the minor should not be given the benefit, and therefore the explanation was removed. It will be open for any one to argue that the explanation which was there has been deliberately removed by the Legislature.

Shri C. C. Shah: The retention of the explanation would on the contrary create difficulties, because if the words "possession and enjoyment" in the clause are interpreted to mean beneficial or constructive possession, and not actual physical possession...

Mr. Deputy-Speaker: Why not?

Shri C. C. Shah: That is the interpretation which is sought to be put on it. I will presently explain the point. Then it makes no difference whether the beneficiary is a minor or *sui juris*, because if the possession and enjoyment of the property which is to be assumed by the beneficiary is treated as constructive or beneficial possession, even in the case of a beneficiary who is *sui juris*, the physical possession will remain with the trustee. It will be so in the case of a minor also. Any distinction sought to be made in the case of a beneficiary, between a major and minor......

Mr. Deputy-Speaker: We can understand enjoyment in the context. Enjoyment is taking the main profits or the income. What is the meaning of this possession?

Shri C. C. Shah: That is precisely why I had tabled an amendment to omit the words 'possession and'.

Mr. Deputy-Speaker: Therefore it applies not only to the national possession, but actual possession as well.

Shri C. C. Shah: But this clause is taken verbatim from the English statute. In England, the courts have interpreted the word 'possession' to mean not actual physical possession, but only beneficial or constructive possession, *i.e.* to say, the possession remains with the trustee, but it is construed to be a possession on behalf of the beneficiary to whom the enjoyment goes, namely the income. Therefore the words 'possession and enjoyment' mean only beneficial or constructive possession. If that is the correct interpretation, then the explanation is entirely out of place, because then it makes no difference whether the beneficiary is a minor or a *sui juris*.

Mr. Deputy-Speaker: How can he have the enjoyment? Payment to a minor does not discharge a person of his liability to pay. He cannot give a discharge. A minor cannot give a discharge, according to the law of contracts.

Shri C. C. Shah: So far as enjoyment is concerned, on behalf of the minor, every trust deed ordinarily provides the person to whom the income is to be paid on behalf of the minor. If no such provision is made in the trust

[Shri C. C. Shah]

deed, then it is the duty of the trustee to apply the income for the benefit of the minor in terms of the trust deed, and in neither case is the income paid to the minor. If the trust deed provides for the income to be paid to somebody on behalf of the minor, then the trustee is discharged upon such payment. If there is no provision in the trust deed, then it is the duty of the trustee himself to apply the income for the benefit of the minor in terms of the trust deed.

Mr. Deputy-Speaker: If there is a guardian for the minor, he is bound to give it to the minor's guardian.

Shri C. C. Shah: A guardian can be of two kinds. He can be a natural guardian or a legal guardian. If there is a natural guardian only, then the trustee would not be discharged of his liability by payment to the natural guardian. If there is a legal guardian appointed by the court, then payment to the legal guardian will be a discharge so far as the trustee is concerned, but if there is no legal guardian appointed, then it is the trustee himself who becomes a guardian for the minor.

Mr. Deputy-Speaker: The natural guardian is the legal guardian in many cases.

Shri C. C. Shah: It is not expected that for every minor, there ought to be a guardian legally...

Mr. Deputy-Speaker: Not necessarily.

Shri Pataskar: There are natural guardians also.

Shri C. C. Shah: In that case, it is the duty of the trustee himself; he becomes the guardian, and it is his duty to apply the income for the benefit of the minor in terms of the trust deed.

Mr. Deputy-Speaker: How does he become? Does he take the place of the mother to maintain the boy and give him milk? A trustee can never take the place of a guardian. It is his duty to pay. What is the objection to having this explanation?

Shri C. C. Shah: The explanation would create this difficulty that it seeks to make a distinction between beneficiaries who are minors, and beneficiaries who are *sui juris*. Assuming that the explanation remains, is it contended that in the case of beneficiaries who are *sui juris*, actually physical possession must be handed over by the trustee to the beneficiary?

Mr. Deputy-Speaker: Whatever position a *sui juris* can take, is taken by the guardian on behalf of the minor. Therefore the nature of the possession is not made different.

Shri C. C. Shah: Supposing there is a trust for life for A, and then for B, and X is the trustee, then it is the duty of X to pay the income to A, because only the income is payable to A for life, the possession of the property cannot be given to A, because if the possession is handed over, the trust would come to an end, and A is only a life-tenant. Therefore the possession will always remain with the trustee, and actual physical possession will be handed over, when under the terms of the trust deed, it is to come to an end. Until then, the possession must remain with the trustee. Therefore it makes no difference, and that is my submission, whether the beneficiary is a minor or a major. The only point for consideration is really this, whether the contention that possession and enjoyment must mean beneficial possession only and not......

Mr. Deputy-Speaker: It does not. I am afraid, the hon. Member is going away from the point. The main difficulty is this. We will assume that a person, whoever he might be, whether a *sui juris* or a minor, has not got actual possession, but gets only the enjoyment, *viz.*, income. In the case of the *sui juris*, it can be paid to the *sui juris*, who is a major. In the case of a minor, who is to take this possession, whatever might be the nature of the possession? In that case, a guardian gets possession, and he as a *sui juris* is entitled to talk on his behalf, and that will be sufficient possession, for this purpose.

Shri C. C. Shah: Your question relates only to enjoyment and not to possession.

Mr. Deputy-Speaker: To such possession, as a *sui juris*, he is entitled.

Shri C. C. Shah: So far as possession is concerned, there is no distinction between a *sui juris* and a minor. That is my submission.

Mr. Deputy-Speaker: But so far as enjoyment is concerned?

Shri C. C. Shah: So far as enjoyment is concerned, it is the payment of the income to the beneficiary. So far as a *sui juris* is concerned, it can be paid over to him. So far as a minor is concerned, there are two possibilities. If there is a guardian, it can be paid to the guardian. If there is no guardian, then it is the duty of the trustee to apply it for the benefit of the minor. That is what is done in all trusts. But the retention of the explanation would undoubtedly create greater difficulties, than its omission.

Shri S. S. More: I have got some doubts about the Finance Minister's idea of dropping this proviso, *viz.*,

> "Provided that in the case of property held by the deceased as a trustee for public charitable purposes the period shall be one year."

The hon. Minister was pleased to state that in the case of a public charitable purpose, or trust, there will be no beneficiary to take possession. May I put to him a concrete case, hypothetical though it may be? Supposing I have got some property, and I establish a school, which will be a public charitable purpose within the meaning of the definition, then I become the sole trustee of that particular school, and as the trustee I make rules or regulations for regulating the property or the conduct of the trust by which I appoint my sons, my brothers etc. to different posts, and all the beneficial enjoyment is virtually taken by myself or by my relations in the spurious name of a charitable institution, what happens? Of course, I speak subject to correction. What check is there? Is there any remedy for excluding that entire exclusion of others? I think that clause will not come into operation.

Mr. Deputy-Speaker: I think that that proviso may be allowed to stand, while this may be added as another proviso.

Shri Bansal (Jhajjar-Rewari): On a point of order, Sir. We are discussing the Estate Duty Bill and highly controversial legal issues are involved. I know some of the hon. Members here are legal experts, including yourself, but I think it is the duty of the hon. Law Minister to be present here and guide the House in such delicate and complex mattters.

Mr. Deputy-Speaker: I have myself been feeling the difficulty. I expect the hon. Law Minister to be here all through the day during the passage of this Bill. Although the responsibility of piloting it rests on the Finance Minister himself, questions of legal interpretation come in very often and I may say something and an hon. Member may say some other thing, but we would like to be guided by the Law Minister. I am really sorry that the Law Minister is not here when such controversial issues are being discussed.

Shri C. D. Deshmukh: The hon. Law Minister cannot help it; he is the Leader of the other House and his presence may also be required there as they are also having their sessions.

Mr. Deputy-Speaker: I am sure the Leader of the House will take care to see that the Law Minister is here and his services are available to us whenever such difficult legal questions arise.

Shri C. D. Deshmukh: For the afternoon sessions when the Council of States is not sitting, it would be possible.

Mr. Deputy-Speaker: He is the Leader of Council of States but we do want his assistance here as the Law Minister. Therefore, some arrangements must be made there and I expect him to be here all through until the passage of this Bill.

Shri S. S. More: Why not make Shri Gadgil the substitute?

Shri Raghavachari: What should happen in the case of a man who is not a *sui juris*? It is precisely to make provision for such a thing that this explanation was put in. It was contemplated that not only the beneficial enjoyment but the physical possession also must be with the beneficiary, that is assumed by the beneficiary, and in the case of a person who cannot legally assume as in the case of a person who is not a *sui juris* it was contemplated that somebody on his behalf might do it. Therefore, if the idea is that it is not physical possession, the word "possession" may be omitted. But the intention of the Finance Minister is stated to be not to insist on physical possession also. Therefore, the explanation will only make it perfectly clear and there is no reason to omit it and create confusion.

Shri N. P. Nathwani: I have to make a further submission. The first is that if you retain the explanation, it would lead to confusion. Secondly, I wish to submit that the proviso in favour of public charitable property is necessary and it should be retained.

Mr. Deputy-Speaker: You mean public charitable purpose.

Shri N. P. Nathwani: First of all, I am dealing with the explanation. In my opinion it is necessary that it should be deleted. If you retain it, it would lead to confusion. The words "possession and enjoyment of the property" are not used for the first time in the first part of Clause 21. If you, Sir, turn to Clauses 9 and 10, you will find the same words have been used and this is what the learned author Dymond has to say about deeds and settlements in respect of which the donee should assume and retain possession and enjoyment.

Shri U. M. Trivedi: May I put in a question? You are talking of constructive possession and also say in the same breath "to the exclusion of the deceased". How can constructive possession and "to the exclusion of the deceased" go together?

Shri N. P. Nathwani: I shall deal with it. The same words have been used in clause 21. For this condition the possession and enjoyment should be assumed and retained. The learned author says that for this purpose it is not necessary that the original donee should personally retain the property. It is sufficient that possession and enjoyment are retained by the donee. If the property is held under trust solely for the beneficiary, the condition is fulfilled. So, clauses 9 and 10 deal with cases of trusts also. As you have used the same words "possession and enjoyment" already, and it means beneficial possession and enjoyment. now if you want to retain the explanation like this here, you will have to go back and incorporate the explanation on the same lines in clause 10 also which it is not necessary to do, I submit, because what is meant is beneficial possession and enjoyment. What is meant is the constructive possession. If the trustee holds the property for the benefit of a beneficiary, it is the possession of the beneficiary for the purposes of clauses 9, 10 and 21. Therefore, it is necessary that we should delete the explanation. Otherwise, it would lead to confusion.

Mr. Deputy-Speaker: How do clauses 9 and 10 relate to trusts?

Shri M. C. Shah: If special provision is made in clause 21, where the deceased is the trustee, how can the analogy hold good? Here the deceased is the trustee with some beneficiary interest reserved for him. In the other case, the deceased is not the trustee.

Shri C. D. Deshmukh: It was for this reason that we thought of making an exception in clause 21.

Mr. Deputy-Speaker: Clause 21 relates specially to trusts. Therefore clauses 10 and 21 must be read together. To that extent 10 does not apply to 21.

Shri C. D. Deshmukh: But the language of 10 must be held to include not only to physical possession and enjoyment but also beneficial possession and enjoyment. That must be construed in a general sense in order to make it possible for us to introduce clause 21.

Shri Raghavachari: Under Clause 10 donors are not entirely excluded, but under Clause 21 they are entirely excluded.

Shri C. D. Deshmukh: That is another condition. We are concerned with the meaning of the words "possession and enjoyment" and there may be a good number of combinations of possession and enjoyment and wherever these words occur, the meaning must be construed in the sense which the Law Courts give it. It may by physical possession or beneficial possession. Mr. Nathwani's remarks seem to be that if you retain the explanation, then by implication you deny that possession and enjoyment have a constructive meaning.

Mr. Deputy-Speaker: This is his impression. In the one case a guardian is taking possession, whatever may be the possession—even symbolic possession. In the other case there is no person who can take even that symbolic possession. When he is a minor, it is the guardian who must take the symbolic possession. Therefore, the explantion is necessary. Not that by this symbolic possession will be converted into actual possession. Whatever the possession, the minor is entitled to have it only through the agency of a guardian.

Shri C. D. Deshmukh: The point is this. When we say that possession and enjoyment of the property was *bona fide* assumed by the beneficiary, it also includes, and must include, a case where a minor's possession was held by a guardian.

Mr. Deputy-Speaker: There is no doubt about it. So far as the Finance Minister is concerned, he said even without this explanation a possession by a minor will mean possession through a guardian. We were on the other point. The hon. Member, Mr. Nathwani's point was that it created confusion. All that I am saying is that it does not create any confusion. It may be redundant; it may be unnecessary.

Shri N. P. Nathwani: As regards the second point, I was submitting that under the amendment proposed by the hon. Finance Minister, the main part would apply even when the property was held by the deceased as a trustee for public charity under a trust created by himself. Now, Sir, the whole idea of making provision for five years is this, that there should be greater proof of *bona fide* on the part of the settler that he has parted with the beneficial possession and enjoyment.

Sir, you know there is ample protection under ordinary law for the case of public charities. If the beneficial enjoyment and possession is not given to the beneficiaries, then under section 92 of the Civil Procedure Code the persons who are interested in the charity can go to the court or can move the Advocate-General and got the necessary redress. Therefore, there is no necessity for enlarging the time in the case of public charities, because you have already provided under clause 9 that there should be a period of six months. Once a valid public charitable trust is created, it is the duty of the trustee to see that the income is applied for the benefit of the beneficiary. If he does not do it then even a member of the public who is interested in that charity can move the process of law. But in the case of a private charity, it might not be possible. Therefore, you can separate the case of private trusts from the charitable trusts and provide for a larger period in the case of a private trust. But in the case of a public charity, I submit, Sir, that the period should be that of six months only

[Shri N. P. Nathwani]

which you have already provided for in clause 9, because there is sufficient safeguard under the ordinary law of the land. That is what I have to submit.

Mr. Deputy-Speaker: When it is reduced to two years, the hon. Member wants that in the case of a public charity it should be reduced to six months. Now, this one year was put down because of the increase to five years.

Shri Raghuramaiah (Tenali): Sir, I rise to support the first point raised by Mr. Nathwani. He has drawn attention to clause 10 of the Bill. No doubt, clause 10 deals with gifts and assumption of possession and enjoyment by the donee. This clause relates to trusts and relates to the possession and enjoyment by the beneficiaries. The difference is, in one case it is the beneficiary and in the other it is the donee, but in either case the question arises whether possession and enjoyment—in the case of a minor—should be by the minor or can it be by a guardian? If we say the general law applies and possession by guardian and enjoyment by guardian will be treated as possession and enjoyment by the minor, the explanation becomes unnecessary in either case. On the contrary, if we feel it is necessary to provide in this clause that possession and enjoyment by a guardian should be deemed to be possession and enjoyment by a minor, I submit, the necessity arises for the same explanation in the case of clause 10—in the case of a minor. There is an identical necessity and if you have it in this clause, you must have it in clause 10 also. Of course I agree with some of the speakers who preceded me that the general law will operate and that possession and enjoyment by the guardian will be deemed to be possession and enjoyment by the minor. Of course, if any trouble arises, the minor has got other remedies. In that view I also join the others and say that this clause is unnecessary. But if you would like to have it in this, there must be a similar clause in section 10.

Shri C. D. Deshmukh: I have heard carefully all this discussion and I have come to the conclusion that our amendment is right, in both respects. So far as these trusts are concerned, we do not believe there will be cases which will fall to be governed by the private trusts. In any case, we are satisfied that this six months' period will govern all these cases and I do not think we need go deeper into this.

So far as the explanation is concerned, I do feel that we shall raise a doubt as to the construction to be placed on these words wherever they occur, if we try to explain them only in one place—whether it is in 10 or whether it is in the body of 21. That is why I say it is much better to leave the explanation out and to rely on the courts for the construction of these words.

Shri Pataskar: The courts are not going to come in at all. Where do the courts come in?

Shri Altekar (North Satara) *rose*—

Mr. Deputy-Speaker: After all the other Members had spoken, I called upon the hon. the Finance Minister. I will now put these amendments to the vote of the House.

The question is:

In page 14, line 24, *for* "five" *substitute* "two".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 14, *for* lines 27 to 33, *substitute*:

> "Provided that in the case of property held by the deceased as sole trustee for another person under a disposition made by himself, the period shall be five years."

The motion was adopted.

Mr. Deputy-Speaker: What about the other amendments? Nos. 52, 57 and 63 of Mr. Somani and Shri Tulsidas.

Shri Tulsidas: In view of the explanation given by the hon. Finance Minister, I do not think that we would press these amendments.

Mr. Deputy-Speaker: Very well. Amendment No. 52 goes, so also 57 and 63. Then Mr. Trivedi—amendment No. 59. I think that also goes.

Shri U. M. Trivedi: No, Sir. I would press for it.

Mr. Deputy-Speaker: All right.

Shri U. M. Trivedi: The Finance Minister has agreed to reduce this period from five years to two years by his amendment. My amendment says:

> "for a minor beneficiary or for public or charitable purposes there shall be no bar of any period."

He has taken out the whole of the proviso. He has not agreed to this proviso which was there in the Select Committee's report:

> "Provided that in the case of property held by the deceased as a trustee for public charitable purposes the period shall be one year."

This goes. So far as the Explanation for a minor is concerned, that also goes. In other words, where the beneficiary is a minor, even there this period of two years stands, and where it is a public charitable purpose, there also the period of two years stands. My suggestion was that when a man makes a charity—in the previous clause 9 also it was my idea—so far as public charitable purposes were concerned, there should not be a period of six months. Even if it is a public charitable purpose, it should be taken to be a *bona fide* gift and it should take effect from the same date whenever the death occurs.

5 P.M.

In the case of this clause 21, we have again the same proposition that where the minor beneficiary is concerned, if he is trustee only for a minor beneficiary or if it is given for a charitable purpose, then I think, the period should not be there. But, since the Minister has not agreed to that, I merely say that I press for this.

Mr. Deputy-Speaker: Does he want to say anything regarding 62?

Shri U. M. Trivedi: 62 goes; it is only when 59 is there that 62 remains.

Shri C. C. Shah: Sir, I would request the hon. Finance Minister to consider the case of public charitable trusts because when he has reduced the period of 5 years to 2 years, it is to bring in line with clause 9. Under clause 9, the period for the gifts which includes trusts is 2 years, and for public charities it is 6 months. Now, if you take away the proviso in clause 21 as it stands, the period for public charity will be 2 years, contrary to what we have provided in clause 9. If I make a trust for public charity and become one of the trustees of it, 2 years' period must lapse before such a trust would be exempt from duty. That is not, I am sure, the intention of the hon. Finance Minister because all that was said was that there are no beneficiaries.

Mr. Deputy-Speaker: It is only reasonable to say that when he himself is the trustee, the statute must be more careful in that case. A man can call himself a trustee and can be in possession for himself. There should be a different rule when he himself is the trustee as opposed to a case when he makes another man the trustee and puts him in possession of the property.

Shri C. C. Shah: Under section 21, he need not necessarily be the sole trustee. There may be 5 trustees and he may be one of them. Supposing a man gives away property worth ten lakhs of rupees to charity, he would like to be one of the trustees. There may be 4 other eminent people along with him. But, merely because he is one of the trustees, two years' period

[Shri C. C. Shah]

will apply. It will be entirely contrary to our intention in section 9. That is taking away with one hand what is given by the other. I do request the hon. Finance Minister to consider this.

Shri C. D. Deshmukh: I think, Sir, it is safe enough as it is; that is to say, where he is one of the trustees, 2 years; in any other kind of trust, it is 6 months, and if he is the sole trustee, it is 5 years.

Mr. Deputy-Speaker: Now, I will put Mr. Trivedi's amendment to the vote.

The question is:

In page 14, *for* line 28, *substitute*:

> "for a minor beneficiary or for public or charitable purposes there shall be no bar of any period."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

> "That clause 21, as amended, stand part of the Bill."

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Clauses 22 to 25 were added to the Bill.

Clause 26.—(*Dispositions in favour of relatives*).

Mr. Deputy-Speaker: Mr. More, are you moving your amendment, No. 486?

Shri S. S. More: Yes, I beg to move:

In page 16, *after* line 4, *add*:

> "(c) the disposition was made by deceased in favour of a relation who has married outside his own caste or community, or who is born of an inter-caste or inter-communal marriage."

Shri Tulsidas: I beg to move:

In page 16, *omit* lines 15 to 27.

Shri S. S. More: Many persons here, on my side particularly, have greeted my amendment with a derisive laughter.

Mr. Deputy-Speaker: What is this amendment which evokes so much of interest?

Shri S. S. More: Sir, under clause 26 certain dispositions in favour of relatives of certain kinds have been accepted for exemptions from the duty.

Mr. Deputy-Speaker: This is intended to encourage inter-caste marriages.

Shri S. S. More: You have grasped it correctly, Sir.

Mr. Deputy-Speaker: Why was it not added to every clause in the Bill?

Shri S. S. More: I think a time will come when some one will have to do it.

Sir, this is a sort of test case. I have been hearing so many speeches from the Congress side and particularly from Pandit Nehru who happens to be the Leader of the Congress that casteism should be abolished. The concrete question that I want to ask is, what are the ways and means for demolishing this so-called casteism? How are caste barriers to be demolished? Sir, in our country, I need not give you instances of social reformers who have tried to break down these caste barriers.

Mr. Deputy-Speaker: A law was passed here, a single clause Act whereby inter-caste and sub-caste marriages were held all right.

Shri S. S. More: They have been legalised by Act XXI of 1949. It only legalised. I will give you an instance. Sir, the Widow Re-marriage Act was passed as far back as 1886 but, in spite of that legislative freedom, caste barriers and caste customs and pressure or influence was so formidable that no widow was prepared to take advantage of that measure. Similarly, Act XXI of 1949 legalises such marriages. As a matter of fact, I can give you a long string of social legislation which deals with this problem of marriage, but I do not want to go into history. Someone at least must make a serious effort to demolish these caste barriers.

If you look to the history of the marriage institution from the earliest days you will find that originally the system was very fluid. Any person belonging to one *varna*—which was a division *guna karma vibhagasah*—

गुण कर्म विभागशः

could marry a lady belonging to another *varna*. But somehow or other after a certain period, these *varnas* which were based upon *gunadharma*, so to say, fossilized and petrified into castes, depending on birth, and in order to perpetuate this caste system, this endogamous marriage system—marriage within the caste only—was introduced. My submission, Sir, is that we have to undo all the things that have been done for the past so many thousands of centuries. Unless economic inducements are held out, large number of persons are not likely to take advantage of this particular measure of reform. Particularly if the rich feel that Government encourage inter-caste marriages by giving tax-reliefs and that if they take to inter-marriages, they may be in the happy position of saving some portion of their property, they will zealously take to it. Possibly they may take to that sort of reform, not for the love of the reform itself but because it brings them some monetary relief or benefit. Sir, inter-caste marriages have to be encouraged. Many people preach many things without practising, but as far as Mr. Deshmukh, the Minister of Finance, is concerned, he practises but does not preach.

Shri C. D. Pande: He preaches and practises.

Shri S. S. More: He is practising but does not preach. That is my complaint. I plead that Government must extend some monetary concessions, some economic facilities, benefits, to those persons who are prepared to defy caste barriers and run counter to the zealousness of the orthodox people who hinder social reform. Such persons need encouragement.

Sir, I would like to quote one or two authorities, because my word alone will not carry the weight which this reform deserves. Justice Gajendragadkar, who presided over the Social Reform Conference which was held at Poona on the 18th April, 1953, says:

> जातीयता नष्ट करण्याचा आणखी एक महत्त्वाचा मार्ग म्हणजे आंतर्जातीय विवाहांना प्रोत्साहन व उत्तेजन देणे हा होय।

I will translate it for those who are not in a position to follow this Marathi.

Mr. Deputy-Speaker: All of us understand it. It is full of Sanskrit.

Shri Gadgil: He has a right to read Marathi.

Shri S. S. More: I am not speaking in Marathi. I am only quoting it.

Mr. Deputy-Speaker: Even if the hon. Member speaks in Marathi, I have no objection. I only said it is easily understandable.

Shri S. S. More: I will translate it for the benefit of the future generations though not for those who are in the House. It means: One more important way of demolishing casteism is to encourage inter-marriages. Justice Gajendragadkar belongs to the Brahmin community, and I will quote now another authority who belongs to the lowest rung of our society. I am quoting Dr. Ambedkar. In his *"Annihilation of Caste"* he has diagnosed all other measures which have been prescribed for so many years for the purpose of abolishing caste, and he comes to the conclusion that inter-dining is not enough and that inter-caste marriages is the only remedy. This is what he says:

> "There are many castes which allow inter-dining but it is a common experience that inter-dining has not succeeded in killing the spirit of caste and the consciousness of caste. I am convinced,"—Sir, his words demand our notice,—

[Shri S. S. More]

> "that the real remedy is inter-marriage. Fusion of blood can alone create the feeling of kith and kin and unless this feeling of kinship, of being kindred, becomes paramount the separatist feeling—the feeling of being aliens—created by caste will not vanish. Among the Hindus inter-marriage must necessarily be a factor of greater force in social life than it might be in the life of the non-Hindus. Where society is already well-knit by other ties, marriage is an ordinary incident of life, but where society is cut asunder, marriage, a binding force, becomes a matter of urgent necessity."

So, my submission is that in the light of these weighty opinions, inter-caste marriage is an absolute necessity if we are serious in our talks about the demolition of caste. Many people grumble about the caste rivalry and caste jealousy. Many people say: why do you want to pull down the Brahmins? Let them remain as they are. You had better find out your own economic betterment, but, in our society, mere economic equality will not bring about social equality. Even if Dr. Ambedkar, one of the eminent barristers of Bombay, was earning large sums of money by way of practice, he himself told me that even *patwalas* belonging to upper castes and who were not getting even Rs. 15 or 20, were not prepared to touch him even with a barge-pole. Some of my communist Members do say......

Shri C. D. Pande: This is a thesis on marriage. Is it in any way relevant to this clause?

Mr. Deputy-Speaker: He cannot go on talking about marriage.

Shri S. S. More: Many people yearn for this or that particular measure. Some people have put in amendments for encouraging *bhoodan*. Some people have put in amendments for the purpose of giving some protection to the refugees. I am also interested in a sort of social reform which is of the greatest importance, and I feel that the time has come for prohibiting caste marriages, but possibly that cannot come so early.

Shri C. D. Pande: You marry a Mahar.

Shri S. S. More: He is asking me to marry at this age.

Mr. Deputy-Speaker: No such conversation need take place, and no reference to such things need be made. Always, the present company must be accepted.

Shri S. S. More: I have not prescribed any Harijan lady for Mr. Pande. Then he would be justified in retaliating in the way he has done. But he is offending me without any reason.

Shri C. D. Pande: Sir, on a point of explanation. I am constrained I must say what I had in mind and what I wanted to say. When he says casteism, he only emits venom against the Brahmins. What I wanted to say was that he is a Mahratta, a non-Brahmin. Is he prepared to descend to the level of Mahars, or he only wants Brahmins to be pulled down to the level of the Mahars?

Mr. Deputy-Speaker: No, no. It is not right, the Mahars will take exception to this. Why, it is very wrong too. We are trying to do something but it ought not to alienate the feelings of others. Let it pass away from our minds. What is the good of saying, is he prepared to marry a Mahar? Is a Mahar prepared to marry a high caste? They do not recognize a high caste. Under these circumstances, it is not right to say one community is better than another community. The hon. Member is just referring to castes. If any particular man—even a Member of Parliament—says caste must go—whether he is able to folow it or not—it is out of order here. Such questions ought not to be put.

Shri S. S. More: My object in moving this particular amendment is that there must be a modest beginning in devising concrete steps to abolish caste. Maharashtra was very fortunate in giving to the country a long line of social reformers.

Mr. Deputy-Speaker: I am afraid the hon. Member is going far beyond the scope of the amendment.

Shri S. S. More: I want to emphasise the point that such a positive step at least may be taken to abolish this caste system. I cannot understand the interruptions and I believe this is ugly orthodoxy raising its head. With these words, I commend the amendment, for the acceptance of the House.

Shri Achnthan (Crangannur): I support the idea in the amendment. My only doubt is whether there will be anybody to give such a disposition. Among the poor communities, there are not people who are worth more than Rs. 10 or 15 thousand. Then, again, inter-caste marriage would help them for their betterment. Among the so-called Brahmins or among the so-called non-Brahmins many are not prepared to dispose of their property for the purpose of encouraging inter-caste marriages. I would really appreciate the attitude or the idea underlying this amendment. There are a number of other matters to encourage inter-caste marriages. We can ask the Public Service Commission to see that priority should be given to those people who inter-marry—both boys and girls—for jobs. Why? Scheduled caste people are given same reservation. So we must hereafter say that a good percentage of jobs must be given to those people who inter-marry, or some land, five acres or so, be given to them free.

There are a number of methods of giving encouragement. This amendment, though it would not serve the purpose or affect the position materially, I suggest, may find a place in the Estate Duty Bill, as a beneficial expectation to those people who want to marry outside their caste. I very strongly support the amendment moved by Shri More.

Shri Gadgil: I give my full moral support to the amendment by my esteemed friend from Poona, Mr. More. That does not mean that I am agreeable that it should be accepted by the House. I make that distinction with a special purpose. Since we have decided that taxation should be an instrument of policy and not merely something to have some yield in terms of money, we are using this piece of taxation for the purpose of securing economic equality. We might as well use this for the purpose of securing social equality.

You may be aware that in the Punjab before Independence certain quotas in several services were reserved for the Sikhs, for the Hindus and for the Mohammadans and every year the quota was notified and the prospective applicants were asked to give their castes. There were a number of cases in which the applicants wrote as follows: "I belong to that caste for which the seat has been reserved this year". You can understand what it was from the social point of view. I, therefore, feel that so far as legal impediments in the matter of inter-communal marriages are concerned, they are absolutely eliminated by certain laws already passed. Now, having removed negatively those things which were so to say a bar, the question now is whether the State can proceed to do something positive. I remember, Sir, in one of my speeches during the election campaign, I said: "If you really want to achieve the objective of a classless and casteless society, nothing is calculated to bring it sooner and better than by the State reserving a certain percentage of services for those who marry outside their caste, other things being equal". So, it is not for the first time that I am advocating it.—Mr. More knows it. Not only this. I honestly feel, if the State is really anxious, as it is, I assume, then, it should subsidise such marriages, though this would be not in the plane of high moral purpose, but on a mundane plane.

Shri U. M. Trivedi: Is all this relevant?

Mr. Deputy-Speaker: How I understand the hon. Member's remarks is this: subsidising may be right, but this amendment is wrong.

Shri U. M. Trivedi: Therefore, he is irrelevant.

Shri Gadgil: The concession can be given in a variety of ways and this is one of the ways. But I do feel that so far as this Bill is concerned, my hon. friend's objective is to create a proper atmosphere.

Shri C. D. Pande: This question is so difficult that it should not have been brought in here. Since it has been brought in there must have been some clarification. I want to raise a few questions in connection with the arguments brought forward by Mr. Gadgil. Not only do we want a casteless society, but a classless society: so will you subsidise a marriage between a very rich man and a very poor woman? After all this is also one way of bringing equality. In regard to inter-caste marriage, it may mean marriage between a Brahmin and a Kshatriya; or a Brahmin and a Vaishya, etc., which according to the *shastras* will make 36 combinations. What combination will you subsidise and which will you penalise?

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): Then, are you opposing inter-caste marriage?

Shri C. D. Pande: Certainly not. I do not want to subsidise, you may marry by all means.

Shri Heda (Nizamabad): Since this question of inter-marriage has been raised I would like to bring one fact to the notice of the House. If a rich man from one community marries with a girl of another rich community, the object we have in view would not be served. I have made close observations of some of these rich communities and the recent trend is that rich people are forgetting caste, they are marrying among themselves. Therefore this will not help our purpose much.

Shri C. D. Deshmukh: Mr. Deputy-Speaker, Sir, I shall not enter into the merits of this controversy at all and I am sure I shall not be misunderstood. The amendment brought by Shri More in his reformist zeal is not relevant to the scope of this clause. The purpose of this clause is to restore to their original nature as proper disposition certain kinds of gifts to relatives, that is to say one looks upon with disfavour, so to speak, all gifts to relatives; in other words they are a likely method of evasion. Then, one thinks of certain matters which might not be evasion, as for instance, where consideration has been paid and so on. In this environment any question of inter-caste or inter-communal marriage is irrelevant That is my reason for opposing this amendment.

Mr. Deputy-Speaker: I shall put Shri More's amendment to the House. The question is:

In page 16, *after* line 4, *add*:

> "(c) the disposition was made by deceased in favour of a relation who has married outside his own caste or community, or who is born of an inter-caste or inter-communal marriage:"

The motion was negatived.

Shri Tulsidas: My amendment No. 435 is for omitting sub-clause (3) of clause 26. Sir, I have put in this amendment because I feel that this sub-clause relates to a control company and corresponds to the United Kingdom Finance Act, 1940, Section 56(2). This section introduces what is called a "statutory hypothesis", assets in trusts for shareholders and debenture holders. How exactly this hypothesis is to be worked has not been finally decided even by the House of Lords. In the case the Attorney-General v. St. Aubyn it is observed as follows:

> "The terms of section 56(2) are far from being a model for clarity

> and they demand a feat of imagination by no means easy to perform. But it is admitted that the sub-section does apply in this case and effect must, therefore, be given to the hypothesis which it enjoys, however un-real and remote from the actual facts of the case the process may appear."

In the same case in the House of Lords, reported in 1952 A.C. page 15, Lord Radcliffe dealing with section 56(2) and "the statutory hypothesis", says at page 51 of the Report.

Paragraph 2 as follows:

> "Of course this is a clumsy device. It is impossible to say with any precision what are the equitable rights which ought to be thought of as analogous to the existing rights represented by shares and debentures. It is particularly difficult in the case of shares, for the section throws no light on the extent to which one is supposed to retain or discard the managerial powers to which the rights of ordinary and other shareholders are subject but which they may ultimately control."

It is therefore respectfully submitted that the provisions of section 62 of the U.K. Act which are found to be difficult of interpretation even by the Law Lords should not be incorporated in our statute. It is a very difficult situation. We do not understand anything. I therefore appeal to the hon. the Finance Minister to agree to the deletion of sub-clause (3).

Shri C. D. Deshmukh: We are aware of the observations in the United Kingdom case. We have considered Lord Radcliffe's observations in 1952 A.C. 15 very carefully and yet we have come to the conclusion that that clause ought to remain. The immediate answer to Shri Tulsidas is that in spite of these defects, not only the House of Lords but also the law courts were able to work out some theory which they called the statutory hypothesis which is the basis of this clause. It is true that in this particular case the judgment was in favour of the assessees. But the point which is relevant for our purpose is that the courts were able to apply the law, that is to interpret it.

I should like to explain that clause 26 is designed to prevent a method of avoidance of duty whereby property is transferred to a relative or a debt is created by the deceased in consideration of an annuity, or an interest limited to cease on death granted in his favour. For instance a person A may transfer a building to a relative B and have an arrangement by which B gives him a life annuity. All that this clause does is to declare that where the disposition made by the deceased is in favour of a relative—and that is not this clause but another clause—within the meaning of the clause and is not for full consideration in money or money's worth, the annuity so created is not to be regarded as a consideration, and that the disposition should be treated as a gift. Such transfer of property for a similar consideration may not only directly be in favour of a relative but may be through the medium of a controlled company, and that is why sub-clause (3) has been inserted there to deal with this kind of possibility of evasion.

In applying this sub-clause in such a case where a statutory hypothesis is worked out, one has to put a question whether the company was holding the assets as a trustee for its members. If so—and broadly speaking the company would not deal with its shares or debentures as freely as an ordinary company can—then the statutory hypothesis applies. And even though the disposition was made through such controlled company, it would be regarded as having been made directly to the relative.

It is no use denying that the language of the clause is complex. But of course methods of evasion, as I pointed out once before, are equally complex. And the number of the ingenious devices adopted by tax evaders is legion. By the Act of 1940 and by

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further amending it in 1950 the U.K. hopes to be able to catch up with these devices. It is not clear whether the tax evaders have exhausted their resources. It may be that in course of time the wording of the law may be even more complex. Nevertheless the point here is that the courts have not found the section incapable of operation in suitable cases, and that is why we have thought it safe to retain it here.

Sir, I oppose the amendment.

Mr. Deputy-Speaker: The question is:

In page 16, *omit* lines 15 to 27.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 26 stand part of the Bill."

The motion was adopted.

Clause 26 was added to the Bill.

Clauses 27 to 29 were added to the Bill.

Mr. Deputy-Speaker: Yesterday I said that we will be satisfied if we dispose of this section, that is ending with clause 29. The next clauses relate to quick succession and other matters. If the House is so inclined we will adjourn now.

Several Hon. Members: Yes, yes.

Mr. Deputy-Speaker: The House stands adjourned till 8-15 A.M. on Monday.

The House then adjourned till a Quarter Past Eight of the Clock on Monday, the 7th September, 1953.